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# HAUD IMMEMOR

*Reminiscences of Legal & Social Life  
Edinburgh & London*

*1850-1900*



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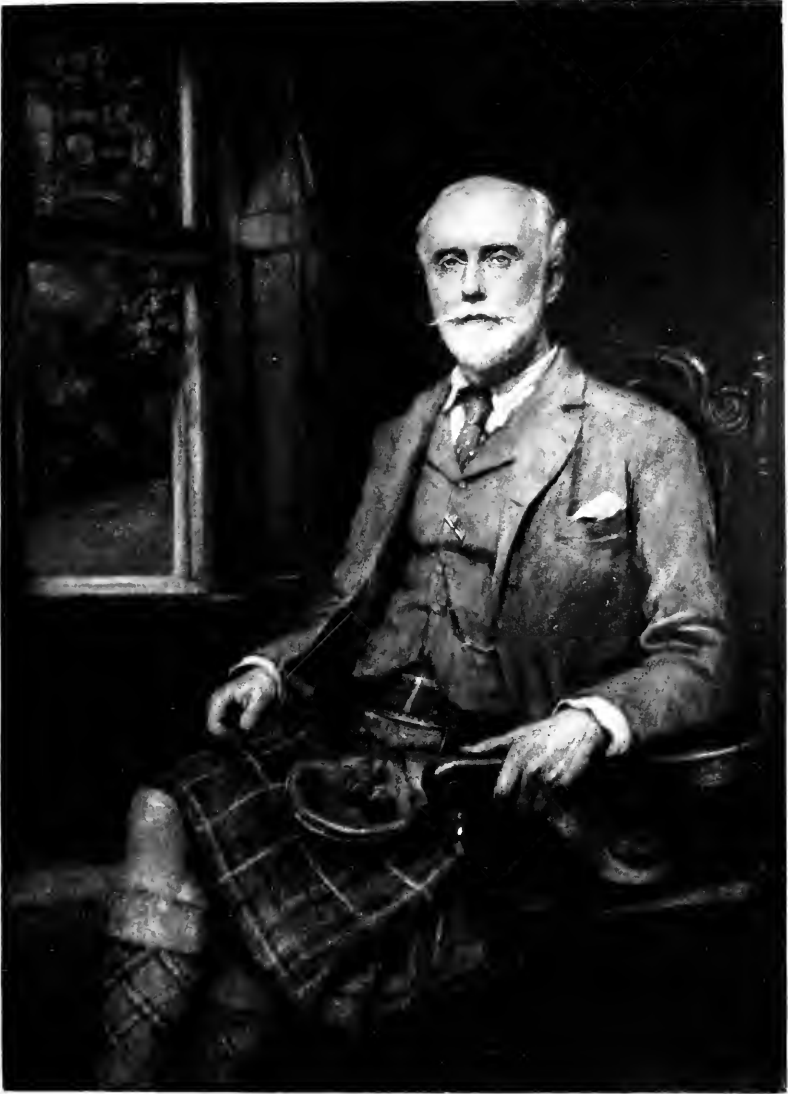


**HAUD IMMEMOR**









Charles Stewart

# HAUD IMMEMOR

REMINISCENCES OF LEGAL AND  
SOCIAL LIFE IN EDINBURGH  
AND LONDON 1850-1900

BY

CHARLES STEWART

EDINBURGH AND LONDON  
WILLIAM BLACKWOOD & SONS  
MCM I



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## P R E F A C E

THE publication of the reminiscences of an obscure man, who has no wish to be otherwise than obscure, seems to require explanation, if not excuse. In the present instance the explanation is this: I have for some years past felt a vague desire to contribute something, however slight, towards the preservation of the recollection of the old Scottish Judges of forty years ago—the men not of past generations, but conspicuous and noteworthy figures who had come within my own personal knowledge and acquaintance. The self-imposed task, or rather relaxation, has been a delightful pastime to myself, and I have been encouraged to believe that it might interest a somewhat wider, though still of course a narrow, circle. I found as I progressed that my recollections of the Court of Session and of those who frequented it at the beginning of the second half of the past century required some setting or framework to explain the point of view of the observer, and it also occurred to me that my recollections of an earlier as well as of a later period embraced some personages of interest outside Edinburgh and the Parliament House. It is vain to attempt to exclude the first person singular from records such as the present, and my memoranda have thus, I am somewhat ashamed to note, assumed an almost autobiographical form; but it will, I trust, be well understood that I neither claim nor desire attention to the commonplace records of an uneventful though somewhat varied life, but that any interest

## PREFACE

which may be found in the following pages is due solely to the persons who are recorded, my only ambition being that the reminiscences may be of some little use as *mémoires pour servir* towards the compilation by some more able hand of a legal and social history of the latter half of the nineteenth century.

*Forsitan hæc olim meminisse juvabit.* These reminiscences would perchance be more interesting a quarter of a century hence than now, but it may easily happen that there may then be no one living or disposed to record them. Possibly, therefore, it may be "now or never."

I suppose that it would have been easy to supplement my own personal recollections by collecting and borrowing from the reminiscences of others, and something more complete and more interesting might thus have been attained; but I felt that borrowing or collecting would detract something from the strictly personal character of what I have recalled, and I confess, too, that I have been unwilling to convert into a literary labour what has been nothing but a pleasant relaxation.

But away with apology or excuse! If the book needs anything but explanation, it should never have been written.

C. S.

38 EATON PLACE,  
LONDON, S.W.  
*November 1901.*

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## CHAPTER I

KING EDWARD VII. was born, as all the world knows, on 9th November 1841, and as my birthday was the same, His Majesty's lifetime is exactly the period covered by these records. It is not a remote one, and it is not exactly the present day. It is outside the range of the daily papers, inside the range of the history books; but manners and customs, people and things, change quickly; events must be hit flying; and history, political and social, must be made up from trifling records. It may be that these memories, or some of them, will have that humble value; it may be that others will summon back pleasant recollections from the limbo of the almost forgotten; it may be, at the worst, that they will only give pleasure to him who records them, the amusement of the leisure hours of a busy man. From this innocent pleasure the apprehension of the severest criticism cannot deter me, nor can its lash rob me of it.

Egotism, or what seems like egotism, is inseparable from personal reminiscences. If I am to speak of what I have seen and know (perhaps some kind friend will say, with Count d'Argenson, "Je n'en vois pas la

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nécessité"), the first person singular cannot be relegated into entire obscurity; but discerning readers will, it may be hoped, perceive that the present writer is not one of those enviable persons who place a high value on their own observations, or on the events which they deign to observe. The connecting link between the persons and things observed and the reader is necessarily myself, and the curiosity, however languid, about the personality of the link and about his point of observation must be to some extent satisfied. I have no life of distinction or of adventure to relate. I have gone through life thus far *in medio tutissimus*, and the reader who cares to follow or to dip will at least be safe from over-excitement. We live in a free country, and those who care neither to follow nor to dip, may go their own way without putting themselves to the trouble of flinging half a brick at me.

I claim a great, though fortuitous, advantage in my birth. What can be better, or more pre-disposing to utility and distinction, than to be born of a Scottish father and an Irish mother? Either breed, if pure, is apt, it must be confessed, to produce rather too much of a good thing. Both are the better of crossing; but judiciously and happily intermingled, what may not one expect?

If the result in the present instance has been unsatisfactory, the rule is all the better proved by the exception. Colts bred for the race-course sometimes find a more appropriate home in the cab-rank, and we must not expect too much from careful breeding.

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The theory of national characteristics is apt to be overstrained. We attach, often on very insufficient grounds, special attributes to special nationalities, and we expect, or rather pretend to assume, that they will be found in every individual. An Englishman is expected to be stolid, a Scotsman canny, an Irishman humorous, a Frenchman volatile, a German phlegmatic, and so on. It offends these prejudices, and seems to give the lie to their holders, to find a Scotsman witty and refined, or a Frenchman solemn and morose, but who does not know as many of the one sort as of the other? A pronounced accent, or a distinctively foreign air and costume, at once raises the expectation of an exhibition of the conventional characteristics. If they appear, as of course they often do, the convention is held to be confirmed and proved; if they do not, the convention is forgotten, but only for the moment. In talking with Thomas Carlyle, I have been tempted to fancy that all he said was characteristic of the Scot. In a chat with the late Lord Morris, one might have been deceived into thinking that the wit and the humour could come from none but an Irishman; but take away the suggestive accent and aspect, and who could tell that you were not conversing with a gentleman from the Isle of Wight? But I know that few will accept my theory of the denationalisation of characteristics, and I abandon the digression.

A Stewart and a Highlander almost necessarily hails from Argyllshire, and it is in that beloved county, grandest in scenery and most romantic in

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history, that my family some centuries back found its home. History and truth compel me to admit that there are many families more thoroughly indigenous to the Highlands than my own, many indeed whose records show no other or earlier location. It was not until the fourteenth century, A.D. 1388, I believe, that the Stewarts were settled in the district of Appin on Loch Linnhe, and began their career, for weal or for woe, as a turbulent Highland clan. In the fifteenth century they were the Lords of Lorn; and lest that should seem like a claim to take the *pas* of the Campbells, let me humbly confess that the MacDougalls were the aboriginal Lords of Lorn, and that the Stewarts and the Campbells obtained the territory and the title mainly by following the good old plan of "Let him take who has the power, and let him keep who can." At least, so I believe, but be it remembered that I make no claim to the accuracy of the historian.

For the last five centuries the Stewart clan, like the larger family of the same name and the same origin which has spread through Galloway, Perthshire, and the North of Ireland, has, I believe, given its share of sensible and stalwart men towards building up the history of the kingdom. Robbers, cattle stealers, soldiers, sailors, for the most part; few of distinction, I fear, in arts, science, or learning, but good average citizens of no mean country.\*

\* Mr Andrew Lang has recently edited the Report on the state of the Highlands in 1750, made in that year by a Commissioner

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For myself I am glad to think and to say that we have contributed something to *England's* greatness. I dislike the petty and jealous distinctions between England and her component parts. We all know and feel that "England" means England and Wales and Scotland and Ireland, and, if you like, Canada and Australia and South Africa too. We are one, we have an equal share in our country's greatness, but while each taking pride in our own separate history, we *must*, for the exigencies of life, have a short name, a single word, to describe it, and that name must be, and is, England.

Our bond is our King, and our common language. Let antiquarians and scholars preserve, and it is well that they should do so, their ancient diversities of tongue, the Welsh, the Erse, or the Gaelic, but away with the pseudo-patriotism that would artificially foster a semi-obsolete and semi-barbarous tongue at the expense of the Anglo-Saxon language which distinguishes our race, and at the expense of the country lad or lass whose time is wasted in the study. The *fin-de-siècle* craze of propagating a distinctive language, in church or school or law-court, in different parts of the United Kingdom, is not only

appointed by the Government. The following extract relates to the Stewarts of Appin:—"Apine—The People of this Country are tall, strong and well bodied, and are Enthusiastically Mad in their zeal for Restoring the Stuart Family. They are not thieves, but Industrious in their Business and Honest in their Private Dealings. They can bring 300 Good Men to the Field."

The testimonial to character is gratifying, but in one particular I am not sure that it is to be relied on. I had always supposed that my ancestors, or at least a good many of them, *were* thieves.

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baneful to the individual, but, as experience is showing in Ireland and Wales and in the Highlands of Scotland, it is practically injurious to the unity of the Empire. A Highlander myself, and deeply attached by opinion and by sentiment to all that is worth preserving in the Highlands, I hope I shall wound no susceptibility if I venture to suggest that none of the Celtic languages that still flicker feebly and artificially in these islands contain any literature that is worth preserving outside the walls of a museum.

But I must get back to, and hurriedly dispose of, genealogical details. I have myself the same sort of shrinking from genealogy as I have from Euclid or Algebra, and I am satisfied that the general reader shares the aversion. I am happy in having a student of the science among my brothers,\* but if I attempted to meddle with it myself, I should probably deserve the castigation which the Head of the Herald's College, the Garter King-at-Arms, received from the caustic tongue of Sir Richard Bethell, who had him in the witness-box. After turning the distinguished specialist inside out, the cross-examining counsel turned to the jury and blandly remarked, "You see, gentlemen, that this silly old man does not even understand his silly old trade."

In the year of grace 1513, Alan Stewart, third of Appin, who married a daughter of Cameron of

\* Colonel Duncan Stewart, late of the Gordon Highlanders, has written a "History of the Stewarts of Appin," but I strongly advise no one outside the family to attempt to read it.







From a photo by Valentine & Co's

View of the 'Impresso'

Castle, Sadrine, Appin.  
Hunting, East of King James IV.

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Lochiel, led the clan to Flodden Field in support of his Royal kinsman, James IV. On his return from the battle, he gave portions of the great district of Appin to each of his five sons who had accompanied him to the war. To James, his fourth son, he gave the estate of Fasnacloich in Glencreran, the other sons getting Ardsheal, Ballachulish, Achnacone, and Invernahyle. My father, Duncan Stewart, was fourth in descent from John Stewart, sixth of Fasnacloich. Five out of six of the Appin estates have now passed out of Stewart hands. The Appin House property, with its lovely demesne and mansion-house, a conspicuous object to the tourists on the Loch Linnhe steamers, was sold in 1765 to a Mr Seton; Ardsheal and Invernahyle soon followed; Ballachulish went into the hands of the Sassenach about 1870, though it might have been saved by my relative Sir John Stuart (the Vice-Chancellor), who had made a fortune at the Bar, when it was sold by his brother Dugald; Fasnacloich passed away only in 1901; and Achnacone, a small property in Strath-Appin, alone remains in the hands of a kinsman and a namesake.

The change from the old order to the new is, of course, rapidly advancing through the country; more rapidly in the Highlands than elsewhere; most rapidly of all in Argyllshire. From South to North, it is true that one may still see Campbells in Stonefield, Inverneill, Ardpatrik, Kilberry, Barbreck, Ardmaddy, Ormsary, Shirvan, Achindarroch, Dunstaffnage, Lochneil, and in Barcaldine Castle; MacNeills in Colonsay

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and Ugadale; a MacDougall in Lunga, in Dunolly, and in Gallanach; a Stewart in Achnacone; a Maclean in Ardgour; a Maclaine in Lochbuie; and Camerons in Callart and in Lochiel; but the gaps in the old ranks, and the new names and ways are—well, either woful or hopeful, according to the idiosyncrasy of the observer. But the change, no doubt, is in the main for the good of the country. To sneer at the *nouveaux riches* is ignorant and silly: the newness generally makes a better landlord; the wealth, in most cases, brings benevolence and material improvement.

My great grandfather, Charles Stewart, was “out in the '45.” Dugald Stewart, tenth of Appin, was a boy of tender years when Prince Charles unfurled his standard in Glenfinnan, and the clan was led by Stewart of Ardsheal. Some three hundred and seventy Stewarts from Appin took the field with Prince Charles, and of these ninety-two were killed, and sixty-five wounded at the battle of Culloden alone, dire evidence of the bloodiness of the fight! My great-grandfather was purse-bearer to the Prince, and received from him the appointment of Sheriff of Argyll. He was present at the battles of Prestonpans, Falkirk, and Culloden, escaping afterwards to France.

My grandfather, William Stewart, was also, in fact, present at Culloden, but being only seven years old, he could, of course, take no part in the battle. He was in the rear of the Prince's army, in a carriage with his mother, and he always remembered the English soldiers, after the battle, searching the

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carriage and stripping a little silver ring from his finger.

It is a somewhat striking link with the past that my grandfather should himself have been present at the battle of Culloden in the '45; but it is perhaps even more so that my grandfather remembered, and used to tell of his having sat on the knee of an old man named James Taylor, who had seen Charles I. passing down Whitehall. James Taylor is buried in the kirkyard at Leadhills in Lanarkshire, and the dates of his birth and of his death confirm the reminiscence.

I remember telling the above circumstance to a clergyman, who was able to cap it by telling me that he had a week before buried an old woman in the same grave as her sister who had died one hundred and fifty years previously. The younger sister, whom he had just buried, died in 1892, at the age of one hundred and two. Her father, at her birth in 1790, was seventy years old, having been born in 1720. He had married his first wife in 1740, being then at the age of twenty. His first child and elder daughter was born in 1741 and died in 1742, his first wife, the mother of the elder daughter, dying not long after. He married again, fifty years later, and became the father of his younger daughter in 1790. There was thus an interval of one hundred and fifty years between the burial of his elder daughter in 1742 and the burial of his younger daughter in 1892.

As my grandfather, William Stewart, grew up, Argyllshire in its conquered condition being distasteful

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to him, he went South, and in the year 1773 bought the small estate of St Michael's in Dryfesdale, in Dumfriesshire. He was a man of ability and resource, and besides taking a prominent part in the business of the country, he undertook the management of the estate of Annandale, a property of great extent, with a rent-roll of some twenty to thirty thousand a year, belonging to the then Marquis of Annandale, but under the curatorship of his kinsman the Earl of Hopetoun. My grandfather married a daughter of Graham of Shaw, a laird of ancient lineage in the Border country, and he established what became not only the home of my father's boyhood, but of my own. Since 1833, about which year my grandfather died, it was the home of my grandmother and of many of her large family of children and grand-children. My uncle, Charles Stewart, who never married, and who became a man of light and leading in Dumfriesshire, was the head of the household, and, with his two sisters, made a home which it was a privilege to share, and is a delight to remember. Plain living and high thinking was not only the rule but the inexorable practice of the house. My uncle, stern and rigid in exterior, but generous and gentle in nature, was a man who impressed himself strongly on all his surroundings. Practical, enlightened, and benevolent, there was, I believe, no more useful man in Dumfriesshire between the years 1820 and 1870. Annandale was then only emerging from the ancient and rude methods of farming, and the consolidation of

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holdings, the erection of buildings and fences, and the encouragement of tenants in the adoption of improved systems of agriculture, was work in which the knowledge and the energy of Charles Stewart were invaluable. Its effect, extended over a career of some fifty or sixty years, was wide and marked. The rental of the Annandale estate, and of others which he managed or controlled, was probably doubled, if not trebled, in his time. Road-making, cottage-building, the foundation of the Caledonian Railway, of which he was one of the original directors, and the public business of the country, engrossed his busy and useful life. His strong sagacity, quick perception of financial results, and his experience in public business made him, along with Mr Hope-Johnstone of Annandale, and Mr Macalpine-Leny of Dalswinton, the chief mover and referee in all county matters, and his death in 1874 seemed almost to close an epoch in the county.

The land in Dumfriesshire was then, as now, in the hands of but few proprietors. The Duke of Buccleuch is responsible for a very large rent-roll; Mr Hope-Johnstone for a very considerable one; and Sir Robert Jardine has now acquired and consolidated a very large estate. Even where landlords are public-spirited and generous, I hope it is not treason to say that for both political and social purposes nine proprietors of £10,000 a year are preferable to one proprietor of £90,000 a year, especially if the magnate has so many mansions elsewhere that he can only spend a month or two

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every year in the county. But it is also undeniably true that large estates, in the hands of liberal landlords such as the Dukes of Buccleuch have always proved themselves to be, are generally the best managed.

Walter Francis, the fifth Duke of Buccleuch, was one of the foremost men of Scotland between 1830 and 1880, and although Edinburgh, Mid-Lothian, Roxburghshire, and Selkirkshire had rival claims on his time and his presence, his high and active sense of duty, as well as his large possessions, gave him an almost overwhelming influence in Dumfriesshire.

The Marquises of Queensberry, shorn of their dukedom, which had passed to the Dukes of Buccleuch by a family devolution which is well known to all those to whom it is interesting, held a property of considerably less extent in the southern part of the county; but the traditions which distinguished "the black Douglasses" still clung to them. Charles, the fifth Marquis, died in 1837, leaving no son, but seven daughters (I believe they were all red-haired), of one of whom, married to her cousin, Robert Johnstone Douglas of Lockerbie, I afterwards became the son-in-law. One only of these seven daughters survives, honoured and beloved by her family and friends, Lady Harriet, widow of Augustus Duncombe, sometime Dean of York. John, the sixth Marquis, succeeded his brother Charles, and lived till 1856; but he took little part in public affairs, less so than his son Archibald, who, as Lord Drumlanrig, was M.P. for the county until his succession, when Mr Hope-



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Johnstone of Annandale was elected. The Queensberry estates have since been disentailed and sold, and the county of Dumfriesshire knoweth them no more.

The Johnstones of Annandale, or Hope-Johnstones, as they have been called for some generations, since an alliance and succession through a former Earl of Hopetoun, have for centuries filled a prominent place in the annals of Dumfriesshire. Their prolonged but still unsuccessful battle for the Annandale peerage is a mere episode in their history, and whether it results in their being Marquises or merely Lairds of Annandale is a matter of little moment in their position and estimation in the county, provided they can hold to their broad acres. The personal charms of many of the race, men and women, are of a kind which will always give them affection and estimation without any external adjuncts.

The late Duke of Buccleuch, himself a Nithsdale and Eskdale man, used, I remember, to tell an Annandale story of a beggar man, a gangrel body, a "thigger and sornier," no doubt, who, slouching into an Annandale farm-yard, addressed the farmer, "Is there any Christian here who would help a pair body?" "Na, na," said the farmer, "we're nae Christians here, we're a' Johnstones or Jardines."

The Jardine family have made an honourable and conspicuous place for themselves in Dumfriesshire. One branch of them, holding the old baronetcy of Applegirth, has (like the Maxwells of Springkell and the Johnstone Douglasses of Lockerbie) parted with its lands; but another branch, springing from the same

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soil, and happily enriched by commercial enterprise, *riches*, but not *nouveaux*, are established at Castlemilk, and are extending their landed possessions and their influence year by year. Their kindred, Bell-Irvings, Keswicks, and Patersons, no "interlopers," but of old Dumfriesshire blood, and mostly enriched out of the great commercial house of Jardine, Matheson & Co., are now also large land-owners in the county.

A meet of the Dumfriesshire foxhounds in the fifties rises to one's mind's eye. Lord Drumlanrig, Carruthers of Dormont, John Johnstone of Halleaths, Robert and David Jardine, Henry Bell-Irving, George and David Hope-Johnstone, Edward Heron Maxwell, Colonel Graham of Mossknow, Colonel Salkeld, James Rogerson of Wamphray, Osmond Stewart, Tom Smith of Dalfibble, and, last but not least, Joe Graham the huntsman; every one of them, except Sir Robert Jardine, now gone to the happy hunting-grounds.

## CHAPTER II

THE generation who were the friends and associates of Charles Stewart of St Michael's, and of my aunts at Hillside, has already well-nigh passed away. It is an intense pleasure to recall those times and those people. Many of my holidays between 1850 and 1870 were spent among them. Many valued friends, less conspicuous of position than those I have mentioned, but of memorable qualities, come back to one's memory; parish ministers, sheep farmers, gamekeepers, and shepherds; high-minded men, who spent their days in those pastoral valleys and moorlands, and gentle and refined women, whose daily work was in the dairy and at the spinning-wheel. A man's circle of friends is poor indeed if it does not include many such.

No one, of course, need expect that gamekeepers, any more than other men, will be all alike. Many years ago I spent a week at a deer forest in the Highlands, my host being a man who entertained largely, many of his guests being people of notoriety and distinction. A gamekeeper or stalker was told off to accompany me during the week. I found him to be a man of great intelligence and diversified knowledge, and surprisingly interested in literature of various kinds. In the long days of stalking we became great friends, and the day before I was leaving I told him

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that when I got home I should like to send him some book, of his own choosing, as a memento of the days we had spent together, in addition, of course, to the usual tip. He was greatly pleased, and said he would think it over, and let me know next morning what book he would choose. I fully expected that he would select some standard book on history or political economy. I could not conceal my astonishment when he told me next day that what he would like best would be a copy of "Burke's Peerage"! I fancied that the book in question was studied only by ladies of fashion with daughters to marry; but when I asked him his reason for selecting it, I thought his answer a good one. "Ye see, sir, there's a good many folk came here wi' grand historical names—names that one reads o' in the history books—and I just want to know a bit mair about them and their forbears; and they tell me yon's the book that'll tell me a' about them." He got his "Peerage" in due course, and I think he will make a good use of it.

Thomas Carlyle, "the sage of Chelsea," whose home, as all the world knows, was at Ecclefechan in Lower Annandale, was an old friend and a constant visitor at my uncle's house. His long summer holidays were, I think, nearly always spent at Ecclefechan, and a drive of some six or seven miles, through Lockerbie, always in his "gig" of respectability (the very symbol of the Scottish Lowland farmer), brought him to my uncle's house in Dryfesdale. He was generally accompanied by his brother, Dr Carlyle, himself a scholar and poet of some repute, and their

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conversation was of intense interest, even if a boy of my years had little personal share in it. Carlyle was a ready and willing talker, even in a family party such as ours, and my uncle was a stimulating companion. The sage's views, slashing, of course, and unreserved, were at the service of all of us, and his fury and savageness would increase, I remember, as the afternoon went on. Would that I had the memory or the note-book of a Boswell, that these crumbs, or pellets, or bullets rather, might have been preserved! I remember that on one occasion, a Parliamentary election in the borough of Westminster, which was reported in the morning's newspaper, was being discussed. The mob, intent on some Radical fad (the Westminster mob was Radical in those days) had been parading the streets armed with sticks and stones. Carlyle stormed at the *polloi* and their aims; "I would just lash them with whips," were the words I remember.

Another day that I recall, the influence of Cromwell on Chief-Justice Bradshaw, and the story of Cromwell seizing Bradshaw's hand and making him sign the King's death warrant, was under discussion. One of the party, not so enamoured of Cromwell's methods as was Carlyle, asked him how he could explain the episode. "Explain it! just this way, it's a damned lie." The philosopher's methods of disputation were direct, but not quite parliamentary.

The description of Carlyle's home at Ecclefechan is too familiar to all readers of his biography to bear repetition. His visits to my uncle's home were con-

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tinued for many years. I never saw Mrs Carlyle until later years in London. I believe she seldom came to Ecclefechan with him, for she had no very close sympathy with his relations, and when he came there for his summer holidays she would go to her relations at Haddington, for, be it remembered, "her man was gey ill to live wi'." The last time I met Carlyle was in an omnibus in Cheapside, not very long before his death. I jumped in, and found myself seated opposite the well-known figure, well known to me, but happily not to the other sardines in the box. We conversed, mostly about Dumfriesshire folk, till I left him at Piccadilly, and I remember that I had no small difficulty in preventing him from making known his identity. Such a disclosure would assuredly have been involuntary on his part, for, with all his self-consciousness, no man could be more free from the petty desire to play to a gallery. Rather, perhaps, the gallery he wished to play to was world-wide.

Before taking leave of Carlyle, let me repeat what Froude said to me one day, not long before Carlyle's death. Froude, as is well known, was very frequently in Carlyle's company, and I repeat what he told me in as nearly his own words as I can remember them: "I saw Carlyle this morning, and he said to me, 'Froude, I have just been reading an old book, a book that I read very often long ago, but not lately. I thought I would go back to it and see what I thought of it now, and I may tell you that I am greatly disappointed with it. You ask, what is the book. It is the Bible.'" The conversation is obviously in-

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complete, for no doubt Froude asked, and Carlyle explained, wherein his disappointment lay. But I was either not told the explanation, or I forget it. I will venture to guess it, however. Carlyle had, as every one knows, been educated for the Scottish kirk in the strictest sect of Presbyterianism, and he had himself been a "dominie." The historian and philosopher had probably learned to appreciate the Bible lesson as fully as his teachers, but his studies had enabled him to rate at their proper value the superstitions which ecclesiastics have invented and interwoven with them.

John Campbell Shairp, Professor and Principal at St Andrews, and Professor of Poetry at Oxford, then a Master at Rugby School, was a frequent visitor at my uncle's house. The two men, differing widely in their worldly pursuits, were profoundly sympathetic, and unbounded appreciation, far removed from the exercises of mutual-admiration circles, existed between them. Shairp, cultured and refined, gentle and lovable almost as a woman; Charles Stewart, practical and reserved, inclined by nature and trained by education to stifle affections and suppress emotions. But they had much in common—earnest desire for the welfare of their country and its people, poetical thought and appreciation, manifest and overflowing in the one, strong and latent in the other; Highland and Border history and legend their favourite topic; Scottish patriotism of the truest sort their common motive. Shairp was by birth a Linlithgowshire man, his home the old tower of Houston in West Lothian; but he had married Miss Johnstone Douglas of Lockerbie,

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and the history and traditions of the Border country had captivated his spirit.

My aunts, "the Miss Stewarts of Hillside," as they were known far and wide, were most admirable specimens of an excellent type. The type was not an uncommon one among the well-born ladies of Scottish houses in the two or three last generations, but it is one which, from the nature of things, is rapidly disappearing. Well educated, even widely read, liberal in ideas, cultivated in thought, dignified and kindly in manners; plain, almost antiquated, in dress, the Miss Stewarts commanded the affection and respect of everyone. Conversation in their presence never descended to gossip or personalities; thought and feeling and speech were always kept at a high level of dignity and kindness,—a home deeply loved by children, because commanding their respect, tinged only by regret in later years that one could not have more thoroughly imbibed its tone.

From this home my father went forth into the world, to make his venture in mercantile life, like many a Scottish younger son. His first experiences in the study of commerce, pursued, I fancy, very much after the fashion of Francis Osbaldiston in "Rob Roy," were at Dantzic, and afterwards at Havre. His special friends and companions there were three young fellow-Scots—Sam Hay, of the family of Haystoun, whom all Edinburgh men of the elder generation will well remember, and John and Sam Anderson, the younger brothers of David Anderson of Moredun, in Mid-Lothian. John and Sam Anderson were, I remember, remark-





*Duncan Stewart, 1830.*



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ably handsome men, as was another brother, Adam Anderson, who afterwards sat on the Scottish Bench as Lord Anderson.

At Havre, my father found what was far more important than commercial success. Harriet Gore, a brilliant and beautiful young Irishwoman, captivated him, as well she might. Her father, Anthony Gore, a younger brother of Sir Ralph Gore, an Irish baronet of County Fermanagh, had, as well as her mother, died in her early childhood, and she was sent to France for a convent education, and then to the care of her guardian, Mr Gordon, who was British Consul at Havre. Miss Gore had already drawn round her guardian's home a small band of admirers, among whom she remembered with special interest, Washington Irving, the American author, who was then engaged on his works of history and romance. I still possess some of the earlier editions of his books dedicated or inscribed to the young lady whose society he found so agreeable.

Duncan Stewart and Harriet Gore were married in 1829, and had a happy married life of some forty years' duration. In my own earlier days they had settled in London. Almost the first homes which I can recollect were in Upper Seymour Street, and in Wilton Crescent, with long summer holidays in Dumfriesshire or in the Highlands. My father's tender and affectionate nature earned for him the deep affection of his children, and he received it in full measure up to his death in 1869. He had little taste either for a life of commerce or of London society.

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But he was of happy and sociable disposition, and he bore with both, for the sake of the education and upbringing of his children, and for love of the many and dear friends who surrounded his home. But he would get away to Scotland, to the river or the moor, whenever he decently could.

My mother, though not more beloved, was, to the outer world, the more conspicuous figure. Of her beauty or personal charm it is inexpedient for me to say much. "C'était donc votre père qui n'était pas si beau"—Talleyrand's polite but necessary rebuke to an ugly man who was boasting of his mother's loveliness—might rise to one's friends' lips. But I love to record my sense of the enormous debt which I owe to my mother for her maternity—a debt, alas! incapable in my case of being repaid by imitation, for that is beyond my powers, but doubly repaid by gratitude and love and appreciation. The secret of her gifts and of her attraction to a wide and diversified circle of friends was not a hidden one. A lively intelligence, brilliant and ready wit, extensive reading, a marvellous memory, grace and piquancy of feature and figure, accounted for much; but a wide and warm heart, and a surpassing unselfishness to her children and her friends, was the spark which brightened and electrified everything she touched. And her friends were appreciative. Disraeli, in my earliest days, Macready, Thackeray, Dickens, Landseer, and Millais, were among her intimates and sincere admirers, and it is among my earliest recollections to see them in my father's house. Count D'Orsay and Lady Blessington and



*Harriet Stewart, 1825.*



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Leigh Hunt and a host of others were earlier still. She was in no sense a public character; she never held a "salon," and her admirers were, for the most part, intimate friends of her own and my father's. She thoroughly enjoyed and was appreciated by the "best" society; if it happened to be the best born and the best bred, it was because, as is happily the rule in this country, the highest culture of thought and feeling was generally to be found there. The houses of the merely rich or the merely fashionable had no attraction for her if culture and refinement were lacking.

Looking forward for a moment to her death in 1884, I may be pardoned for quoting a paragraph which I cut out of a London paper a day or two after her death:—

"DEATH OF MRS DUNCAN STEWART.—A wide circle of friends at home and abroad will hear with regret of the death of Mrs Stewart, which took place on Saturday afternoon at her residence in Sloane Street, after an illness of brief duration. Mrs Stewart's natural qualities, her wit, vivacity, and incisive brilliance, made her distinguished in the most distinguished circles. Her extended acquaintance with the best minds of England and France during a long life, her large knowledge of literature, and her remarkable memory, which was a storehouse of the wit of others, made her conversation almost unrivalled in her generation in interest and charm. The goodness and sweetness of her heart riveted the affections which her mental

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powers attracted. A woman of and in the world, she lived in it more than eighty years without losing charity. The philosophy she learned from her immense experience of men and women she summed up in the phrase her friends often heard from her lips: 'Tout comprendre, c'est tout pardonner.' It is scarcely possible to exaggerate the blank which is left amongst Mrs Stewart's friends by her departure. Her figure was one which her contemporaries at least can hardly hope to see replaced. To many she seemed to represent the intellectual charm of a past generation, along with the freshness of the present, for she lived every day of her long life, and cared as much for the burning questions of yesterday as she had done for those in the early years of the century. Age could not wither her, nor blunt the keenness of her tireless mind. Homes over the length and breadth of England and Scotland will long note the vacant place once filled by Harriet Stewart."

I cannot remember whether it was in the *Times*, or the *Daily News*, or the *Morning Post* that this notice appeared, nor have I ever heard by whom it was written. I think the type and paper of the musty cutting which is before me is the type and paper of the *Times*, and if either John Delane or Horace Twiss had been alive at that date, I know that their personal attachment would have yielded some such tribute; but Algernon Borthwick of the *Morning Post* was among the oldest of her friends; and yet I think I discern the hand of Frank Hill, who was then the editor of the *Daily News*.



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A kind and loving friend of my mother's, Augustus Hare, has written an appreciative notice of her, published after her death in 1884, along with similar sketches of Dean Stanley and Lady Augusta Stanley, in his volume of "Biographical Sketches." Grateful as I am for his affectionate and truthful appreciation of a brilliant and remarkable woman, I almost feel that too much has been said in public there, and perhaps here, of one who shone not in public, but in private, as a friend and as a mother. It seems to me that her fine qualities were of a *timbre* more fittingly to be recorded in the verses of a poet than in the prose of a biographer.

Will my friend Henry James (not the man of law, but the man of letters) forgive me if I draw from my desk into the light of day a letter of his which, I dare say, he supposed would have only an hour's life?

"DEAR CHARLES STEWART,—I am glad of anything and grateful for anything that reminds me of your mother, and seems an echo of the past that every year is pushing a little further into the 'dark backward,' as Milton says, 'and abyss of time.' I like even to see her dear name on any page, and am glad to see it in the piece of newspaper you send me. But she deserved, she always has deserved, to be better commemorated. It should have been done somehow or somewhere, in a way in which it never has been. Every one who knew her that handled a pen must always have regretted that the right opportunity or form never should have presented itself. But it is

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not too late, and something may come yet. At any rate, I like to speak of her, and take pleasure even in the few words that you have given me occasion to say now."

It reads like a mere string of names, but I like to record the fact of her loving friendship and appreciation, I believe truly reciprocated, for such good and honoured friends, as William Spottiswoode and his wife, George Spottiswoode and his wife, Lady Ducie, Mrs Grote, Lady Eastlake, Lady Hamilton Gordon, Lady Strangford, the late Lord and Lady Denbigh, Sir Joseph Hooker, the late Lord Aberdare, the Miss Annesleys, Lady Legard, Miss Louisa Courtenay, Lady Airlie, Lady Stanhope, Lady Wynford, Sir W. Tyrone Power, and Mr and Mrs Frank Hamilton. Some of these have gone, like her, into the past. Those who survive will, I know, find a pleasure in hearing again even the name of Harriet Stewart.

Her mind was replete with the wit and wisdom of the past, but there were no lines more often in her memory than these, and they express exactly her own thought, as death came near :

" Life, we've been long together  
Through pleasant and through cloudy weather,  
'Tis hard to part when friends are dear,  
Perhaps 'twill cost a sigh, a tear.  
Then steal away, give little warning,  
Choose thine own time ;  
Say not 'Good-night' ; but in some brighter clime  
Bid me 'Good-morning.' "

### CHAPTER III

My earliest recollections of London were in 1851, the year of the Great Exhibition. My father's house was near Hyde Park Corner, and I remember seeing the Duke of Wellington on several occasions walking or riding in the neighbourhood of Apsley House. His blue frock coat and white duck trousers would not have sufficed in those days to make him conspicuous, but his profile and stooping figure were memorable.

A boy of thirteen or fourteen, at home only for the holidays, and hating to spend his holidays in London, sees little of the friends of his parents, but I have recollections of many interesting people who frequented my father's house. Captain Marryat, Mr and Mrs Milner-Gibson, Sir John Trelawney, M.P., and Lady Trelawney, Mr and Mrs Peter Borthwick, and the Charles Keans, were, I think, among the most intimate at the period. Milner-Gibson, the close ally of Cobden and Bright, and their colleague in more than one Liberal Cabinet, was the dandy of the Manchester School, and his handsome face and figure, perhaps more than his intellect or his eloquence, gave a decorative element to his party. Their house in Wilton Crescent had always an open door for us as children, and Mrs Milner-Gibson's profuse generosity

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to our nursery or schoolroom party made a lasting impression.

Lady Trelawny (*née* Tremayne) is a sweet memory to all her friends. Beautiful, gentle, and intellectual, many of her charming qualities have passed to her daughters, one the wife of General Sterling, the other married to Sir Jonathan Backhouse.

Mr Peter Borthwick had the reputation of being one of the best and readiest speakers in the House of Commons, and Mrs Borthwick had intellect as well as striking personal beauty. The *Morning Post*, though essentially the paper of the *beau monde*, was not then by any means so valuable a property as it is now, and Mr Peter Borthwick was far from being its sole proprietor; but his ability, and his friendship with Lord Palmerston, were laying the foundation of its commercial value, which was consummated later by its conversion at the right moment to a penny paper, and by the editorial ability of its proprietor Algernon Borthwick, now Lord Glenesk. The Borthwicks were old and firm friends in our house.

Mr and Mrs Charles Kean were among the first actors who assumed and were admitted to a social position of equality with the upper classes. The equality had existed, in isolated cases, for a generation or more; but it has only been in the last half-century that the general culture of the theatrical profession, and, still more, the increase in the scale of their incomes, has permitted them to mix in general society. Charles Kean, like his father, Edmund Kean, though educated at Eton, had known in his early professional

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life something of the *res angusta* of the strolling player. He had married Ellen Tree, a lady who had worked through a long career on the stage; they had both known the vicissitudes of their calling, and it was not until middle life, and until their long lease of the Princess' Theatre was running its course, that their means allowed them to enjoy the general society for which they were so well fitted. The incomes of successful actors, and especially of successful actor-managers, are nowadays on a very different scale. To run a theatre successfully has become a business, and one requiring gifts perhaps not the most exalted or the most refined, and those who make fortunes in it may not, in all cases, be the most desirable as acquaintances. The Keans would probably not have succeeded at the present day, but they were people of refinement and culture. My father and mother believed in the theatre as an element in the education of children, and we were taken often to the play. By these early associations, or by chance, I have thus had the pleasure of the friendship or acquaintance of many of the theatrical profession. Macready, the Keans, Tyrone Power, Helen Faucit, Regnier, Madame Ristori, and the Wigans, as guests in my father's house, stand out clearly in my memory, and in later days the Kendals, the Batemans, and a few other agreeable friends, belong to the region of the present. I cannot say that my slight intimacy with things theatrical induces me, even in these days of eager competition and over-stocking of other professions, to include the theatre as an eligible call-

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ing, except for the most talented. Like most other people, I have known a good many instances of young people of both sexes taking to it from various motives more or less permissible, and I believe that many of them would be the first to admit that a girl of gentle nurture and delicacy must necessarily encounter much to jar on her better feelings, and that a man will have to go through a great deal which he either must, or ought to, feel injurious to his manly dignity. If there is any friend of mine who should feel hurt by such an opinion, let me assure him or her that the regard and admiration which I feel for them is in spite of their calling and not because of it. But I believe that my view is a narrow one. What a splendid addition to our leisure evenings is the theatre, and how enormously important it is that the players should be ladies and gentlemen, or something like it!

In my slight theatrical reminiscences, I may include two old friends who were not actors, G. H. Lewes (I remember a play of his at the Lyceum, in six acts!) and Edward Pigott. I was perhaps too young at the time to enable me to claim G. H. Lewes as a personal friend, and to tell the truth, except for his brilliant ability and his wit, I feel no strong inclination to do so. He was an intimate in my father's house, and I was frequently in his, as a playmate of his boys, and as the recipient of kindness from Mrs Lewes, his wife. But it must be owned that in personal appearance and manners Lewes was unattractive. His long hair, his unaccountable personal vanity, and his unrestrained manners were unpleasing, and it was a matter of astonishment to his

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friends how such a body, even though clothing such a mind, could have attracted such a woman as George Eliot. Their *liaison* was explained and excused by varying theories. It was, of course, deeply interesting to their friends, but I may pass it by without comment, gratefully remembering, as I have often done, William Watson's noble lines on Burns:

“ He erred, he sinned : and if there be  
Who, from his hapless frailties free,  
Rich in the poorer virtues, see  
His faults alone,—  
To such, O Lord of Charity,  
Be mercy shown!”

Edward Pigott, who lived till within the last decade of the past century, and then died at the age of little over sixty, was a far more lovable man. Virtuous, gentle, and amiable, he was at peace with every man and woman, and with society at large. I think he enjoyed nothing more than to sit opposite my mother at the fireside in her drawing-room, to discuss the literature and the drama of the day. He was an accomplished scholar and critic, and it is surprising that his gifts did not carry him, as I think they never did, beyond mere journalism. When he was first intimate in our house, he was editor of the *Leader*, a weekly paper which aimed at, and, I believe, filled, a high position, and in which G. H. Lewes and others of equal literary rank supported him. He afterwards edited the *Daily News*, a position for which one never fancied him to be naturally fitted; and in his latter days he was appointed to be Examiner of Plays to the Lord Chamberlain; a happy day for the enterprising

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manager who had imported a somewhat *risqué* plot or dialogue from Paris; for Pigott's appreciation of humour or literary excellence would never allow him to condemn a piece on the insufficient ground that it might shock a schoolgirl.

Field Talfourd, an artist of talent and repute, the son of Mr Justice Talfourd, and Edward Sterling, the elder son of John Sterling of the *Times*, belonged to this period (1850-60), and were both constant frequenters of my father's house. Talfourd was Bohemian by proclivity, but Edward Sterling, though devoting his life to painting, was a captivating and delightful friend. His early death left many sad hearts.

Henry Thomas Buckle, the author of the "History of Civilisation," was for a year or two a frequent and welcome guest. He was the only man within my own memory who at a dinner table assumed, and was admitted to play, the part of a professed talker. The generation, even in 1860, had passed away when men, even of the stamp of Macaulay, or Samuel Rogers, or Wordsworth monopolised not the conversation but the talk of the dinner or breakfast table. Buckle must have been one of the latest survivors. He was well equipped for the part, by learning, aptitude of expression, and self-confidence. His disquisitions, extending sometimes for fifteen or twenty minutes without a break, almost assumed the form of a lecture; but they were never tiresome, for his mind was stored by omnivorous reading, extensive travel, resplendent latitude of thought and study. I think I remember his saying that up to the age of forty he had never written a



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line, contenting himself with filling his mind and his memory, taking in but never putting forth, till he was fully equipped for giving out his great book. The "History of Civilisation" was, I believe, his only work, and he died, I think, about the age of forty-five, before he had completed it. His thoughts and conversation were always on a high level, and I recollect a saying of his, which not only greatly impressed me at the time, but which I have ever since cherished as a test of the mental calibre of friends and acquaintances. Buckle said, in his dogmatic way: "Men and women range themselves into three classes or orders of intelligence; you can tell the lowest class by their habit of always talking about *persons*; the next by the fact that their habit is always to converse about *things*; the highest, by their preference for the discussion of *ideas*." The epigram, for an epigram, is, I think, unusually true; but the modifications it requires for practical life are too obvious to dwell on. The fact, of course, is that any of one's friends who was incapable of a little intermingling of these condiments would soon be consigned to the home for dull dogs.

## CHAPTER IV

SUCH book learning as I have acquired has been mainly at the hands of private tutors. For three or four years I studied, not quite ineffectively, under the roof and personal care of the Rev. Josiah Walker, Vicar of Wood Ditton, near Newmarket, in Cambridgeshire. Mr Walker was a fine scholar, a good man, and a gentleman. He took charge of some seven or eight boys only, and it was, I am sure, not his fault but his pupils', if they did not imbibe both learning and morality at his hands. My school companions at Wood Ditton were mostly Cambridgeshire boys, and with some of them I have enjoyed continuous friendship. Charles Peter Allix of Swaffham Prior, Herbert Eaton of Stetchworth Park, Sir John Rae Reid, Seymour Portman of Hare Park, Arthur Jackson of Wisbech, Johnnie (afterwards Sir John) Farquhar and his younger brothers (afterwards Sir Robert and Sir Horace), Arthur and Edward Hailstone of Bottisham, Stanley and Edward Hicks of Wilbraham, and John Cotton, were those whom I best remember. Some of them have now joined the majority, and others are still pursuing their careers with more or less mundane success.

In 1855 I went to Rugby, then under the Head-mastership of Dr Goulburn, the successor of Tait, the

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predecessor of Temple. Goulburn was a man of great piety, and of good theological and classical attainments, but his selection as Headmaster, to follow Dr Arnold and Dr Tait, and to carry on their system, showed no great judgment on the part of the School Trustees. As a preacher at Quebec Chapel, as Dean of Norwich, as the author of devotional manuals, Dr Goulburn excelled; but as guide, philosopher, and friend to boys of from thirteen to eighteen years old, he was out of his element. He was "donnish" in the extreme, austere and unsympathetic in manner, though I believe not in heart, and knowing little, I fancy, of the nature of the four or five hundred young animals he had to supervise and educate. I had, no doubt, less opportunity than some others of judging of his qualities, for I boarded not at "the Schoolhouse," but with one of the house-masters, the Rev. C. T. Arnold, better known (even tradition never told why) as "Plug."

Goulburn's influence was little felt throughout the school; at any rate, among the boys. He had little of close touch even with the leaders of the school. I remember H. Sidgwick, who was head of the school when I went there, and who occupied a distinguished position there and afterwards at Cambridge, telling me that he one day met Goulburn in Pall Mall only a short time after he had left Rugby. He stopped, as a matter of course, to speak to his former headmaster; but Goulburn was stiff and unresponsive, and it was only with difficulty he could be got to recognise his former pupil. I remember, too, another boy, a junior in the

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schoolhouse, who for some domestic reason was staying on at the schoolhouse through the Easter holidays. Goulburn good-naturedly asked the boy to join him every day in his afternoon ride. This was, no doubt, good physical exercise for the boy, but socially it must have been a dreary ordeal. Goulburn jogged along on his big horse; the boy followed on his pony, a yard or two in the rear. Not a word passed between the two during the long ride, until they parted at the door of the schoolhouse on their return. "We have had a delightful ride; good afternoon." The same cheery converse passed each day till the ordeal was over, at the end of the holidays. No doubt there are others who can remember Goulburn in more benignant and sympathetic moods; benignant in spirit I think he always was, and I have myself dined with him in his Deanery at Norwich, when a little more of the common human clay manifested itself; but he was always essentially an ecclesiastic, and his natural gifts were not those of a successful schoolmaster. But I know that he was beloved, and I believe deservedly so, by many.

Some of the assistant masters at Rugby in my time deserved and attained distinction. Benson, whom Goulburn brought to the school as master in the junior form, became Archbishop of Canterbury; but during my experience of him, he was just beginning to find his feet, after recent emancipation from his own college career, and he took no prominent position in the school. G. G. Bradley, now Dean of Westminster, who had a large and well-managed house,

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was recognised as a strong and effective master, and his house was always full and his pupils among the foremost boys. J. C. Shairp, who afterwards became a Principal at St Andrews University, and Professor of Poetry at Oxford, had come to Rugby under the *régime* of his friend and compatriot Tait, and remained for a time under Goulburn, but was soon drawn away to a professorship in his beloved North. He was liked by the boys, but he was hardly so much in his element among English boys, as among his beloved Doric students at St Andrews. His house was a small one, the only boy in it whom I can now remember, being Cross, who afterwards became the husband of "George Eliot." The other house-masters in my time were C. T. Evans, Bowden-Smith, Anstey, Burrows, C. T. Arnold, and Mayor.

These reminiscences of Rugby seem meagre; but it somehow happens that the three years I spent there do not fill a very prominent place in my recollections. I was myself undistinguished, and did nothing to attract or deserve attention. The "School-Runs," the football and cricket in the School Close, have not their glories and their terrors been recounted by "Tom Brown," and would they not be spoiled in the re-telling by a humbler pen? In truth, the school had a little fallen from its high place after Arnold and Tait had gone. Horace Davey, Charles Bowen, and Sandford had just left the school ranks, and the firmament was filled for the time by minor luminaries.

After leaving Rugby in 1858, where I had attained none but the mediocre position to which the character

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of my gifts and attainments so justly restricted me, I spent some two years with private tutors and in occasional travels on the Continent. My elder sister had married Baron Otto von Klenck, Equerry or Hofmarschal to the King of Hanover, and she and her husband being resident in the Royal Palace at Herrenhausen, my visits to her brought me into contact with those royal personages. The end of the independence of the Kingdom of Hanover was not far distant, but the shadow of Prussian domination had not yet become visible, and the Royal House and the Royal Capital were still in their modest regal state. The blind king, a most kind and courteous gentleman, ruled his country and entertained his court in kingly fashion, and even a chance visitor like myself was permitted to see something of the royal interior, and of the family life; for my sister and her husband, like my cousin Countess Bremer, were, as they still are, favoured people. They have devoted their lives to King George's family, and their faithful service is rewarded, I know, by close and undying friendship and affection. Queen Marie, through what I may perhaps be allowed to call a friendship of forty years, has always seemed to me the very model of what a queen should be, and our own beloved Queen Victoria has supplied us with the best and highest of standards. Now in her eighty-second year, Her Majesty has still the grace and dignity that befits a sovereign, with the kind heart and the loving spirit that are only found in a good woman. Her daughters, Princess Frederica and Princess Mary, then bright and handsome girls,

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have grown into bright and handsome women. Of the former I remember Lord Beaconsfield saying that he never saw anyone to whom Heaven had given more clearly the looks and bearing of a Princess. I think he would have said the same of the Princess Mary if he had had the same opportunities of knowing her. The Duke and Duchess of Cumberland, now the parents of a charming family of sons and daughters, have made their permanent home, as every one knows, at Gmunden in Upper Austria, a romantically beautiful spot, where I have still from time to time the pleasure of enjoying, from the house of my sister and her husband, their gracious and friendly society. But these things belong more essentially to the domain of private life.

## CHAPTER V

THE choice of a profession is a problem which almost every father and every son has to solve, and year by year it seems to present increasing difficulties. Most young fellows of spirit between the ages of sixteen and twenty have a fit of the scarlet fever and dream for a time that the barrack-yard or the deck of a man-of-war offers the highest form of earthly delight. Up to the age of five-and-thirty or so, the life of a soldier or a sailor has everything to make it attractive, stirring scenes, a smart uniform, little study, a life of action; but after that age there are few who would not sadly admit that the balance of advantage is in favour of the arts of peace. A substantial income, a settled home, domestic life, wife and bairns, opportunities for sport or study, begin to make their appeal to "a man of forty," and then I fear the Army or the Navy are "not in it."

The late William Spottiswoode, a man of the world as well as a man of learning, was one whose advice was often sought in regard to the choice of a profession. He was the head of a large commercial house as well as a leader in Science, Queen's Printer, and President of the Royal Society. He was not only a man of the sweetest and most amiable nature, but he had sound judgment and a practical knowledge of business, as well



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as a mind and head alive both to the material advantages of wealth and to the elevating influence of the higher studies. I have myself often had the benefit of his advice, and there were few questions of the higher order on which he was not pre-eminently qualified to give counsel. Many young men would consult him, when they had finished their university curriculum, on the choice of a profession; in some cases, men with promising openings in commercial life, for which college studies and perhaps university distinctions had given them a distaste. But William Spottiswoode's advice to them (I paraphrase it as best I can) was, "Stick to the shop; serve it, and it will serve you. If you have no special aptitude, or no inclination for any particular profession, stick to the trade where you can make money, not for the sake of the money, but for the sake of the opportunities that a good income will give you. Remember that of the twenty-four hours of the day, every man must spend, say eight hours in sleep, eight hours in work, and the remaining eight hours in some *parergon*, relaxation of one kind or another. For the eight hours of sleep, it is no matter at all what your profession or trade or calling may be; all you want is a comfortable bed. For the eight hours of work, it matters very little what particular kind of work you are employed on; work is work and not pleasure, and whether it be scientific investigation, or reading law papers, or making brass buttons, the real object of it, besides being of some use to the world, is to provide yourself with the means of spending the eight hours of leisure agreeably and use-

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fully. The eight hours of leisure and the way of spending it, the *parergon*, is the thing that really matters. In the learned professions you may have to work ten or twelve hours a day without earning much money, and so you will have little time and perhaps little money for your leisure hours; so I advise you to take up any money-making business where you have good opportunities, stick to it and put your best work into it, and you will find, not only that your university education will tell, but that you will have money in your pocket to follow your private tastes and inclinations whatever they may be."

The advice was sound, but in my own case, unfortunately, no such opportunities offered themselves. I had no capital at command, and, unlike the proverbial Scotsman, I had an ardent desire to spend my life in my own country. The best and kindest of fathers left me a free choice. Two of my elder brothers had gone into the Army, one into the 2nd Dragoon Guards, and the other into the 92nd Highlanders, and the third was sheep-farming in Scotland. I had no special *penchant* or, at all events, no special aptitude for the law, and, worse still, I had no writer-to-the-signet or solicitor to give me the start which an unknown youngster at the Bar stands so much in need of. But the Bar offers some glorious chances, and, whether wisely or not, I determined to become a Scottish advocate. I had been captivated by the annals of the Edinburgh Parliament House, and by the biographies and tales of the Law Courts which lighten Scottish history and give reality to Scottish

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fiction. The achievements of Brougham, who had begun life at the Scottish Bar, and the *éclat* of Erskine, Jeffrey, and Cockburn were still fresh in conversation and literature. The stories of the Porteous Mob and of Jeanie Deans, the trials of Burke and Hare and of Deacon Brodie, still thrilled the student of history and the novel reader, and the life of an advocate, however small might be one's aptitude for it, promised to gratify most of one's tastes.

The choice between the Bar of Scotland and of England is one which must present itself to many men, and the relative advantages must in each case, of course, be carefully weighed. Family ties, residence, and associations urge the Scot to remain in his own country; and if he has legal connections in Edinburgh or any of the larger towns, these should be of material assistance to him in Scotland, though useless, or nearly so, in London. A good connection, even though it be a limited one, among Edinburgh or Glasgow solicitors is sure to give the young advocate his chance in the Parliament House. He becomes known there much more easily and with much greater certainty than in London to actual or possible clients, and if he have the good fortune to belong to a known Scottish family, he will not remain unnoticed. Legal or social connections are by themselves, of course, either in Edinburgh or in London, insufficient to ensure success. Combined with industry and ability, I think they make success tolerably certain in Edinburgh, while the same cannot be said for London. The reason is obvious to those who know

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the conditions of the struggle in the two cases. In Scotland the legal circle is comparatively small, both of barristers and the solicitors on whom they are dependent. The young advocate, if he is diligent and means business, spends his day, or at all events some hours of every day, in the Parliament House, his wig and gown advertising him for hire, in the Courts, in the library and in the hall, pursuing his studies or such little practice as he has secured, conspicuous to clients and patrons, and, among not more than a hundred or so of competitors, not unnoticed by them.

In London, the difficulties which a young barrister has to encounter are undoubtedly greater. Studies are pursued in the privacy of chambers, the crowd of barristers and solicitors follow their callings without personal knowledge of young men who are not actually engaged in their cases; and great ability and great industry may languish and decay unseen and unheard of. For a man of distinguished ability and forensic talent, it goes without saying that the English Bar presents the wider field and the higher prizes. I have known ambitious Scotsmen who might have done moderately well in their own country, who have gone down in the vortex of London. The best men of the Scottish Bench and Bar, as they are at the present day, are certainly equal to the best of their contemporaries in London, and in my opinion those Scotsmen who have remained in their own country, and who have attained high position on the Bench or at the Bar, have exercised as wise a choice as those who have migrated to England. If the

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bustle and the varied society of London be more to the tastes of some, those are not less wise who prefer the comparative ease and quiet and the cultivated leisure of Edinburgh.

The education and examinations for the Bar in Scotland are more systematic and exacting than in England, though in neither case do they present any obstacle to a man of decent education. A prescribed course of university lectures on law is, for the Scottish Bar, essential, antecedently to the Faculty examination.

The University of Edinburgh, where I became a student in 1859, had recently lost some of its more distinguished professors, but its reputation was well supported by a few men of eminence. Dr John Lee, the Principal, an old-fashioned theologian of the conservative persuasion, maintained the dignity, but hardly advanced the public appreciation, of the divinity school; he was eclipsed by the fervour and popular eloquence of Guthrie and Candlish in the pulpit and the classroom of the rival Church. In Classics, the college teaching had never been strong, for the time had not yet come when the Crown or the Town Council had the courage to look beyond Scotland for their professors. The truth is, that there was then no school of classical learning in Scotland which was competent to supply the scholarship which was needed. Not many years later, more enlightened views prevailed, and scholars of the stamp of William Sellar, George Ramsay, Lushington, and Butcher, the best that the English universities could supply, sought and obtained the professorial appointments. But in

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my day, Pillans, the "paltry Pillans" of Byron's scurrilous *English Bards and Scotch Reviewers*, a worthy but worn-out dominie of the High School, was Professor of Humanity, and it must be confessed that the standard was not equal to what I had left behind at an English Public School.

The Chair of Greek was filled by the popular and patriotic Professor Blackie, and though there was much of instruction and amusement, intellectual and otherwise, to be obtained in his class-room, I cannot say that I added much to my knowledge of Greek under his professorial care. Still, John Stuart Blackie was an institution in Edinburgh, and, on the whole, an admirable one. His handsome and picturesque presence, his perfervid and eccentric manners and address, were a notable feature in Edinburgh life, and the town as well as the college were richer and better for his zeal and patriotism. A large part of the lecture hour was spent in the inculcation of the modern Greek pronunciation, in place of what he denounced as the stupid usage of the English universities, and if one learned little Greek in his class-room, one had at least the opportunity of picking up a good deal of Gaelic, and not a little Scottish poetry.

For the B.A. degree a course of lectures on Belles Lettres was prescribed, and as William Edmondstone Aytoun was then the Professor, the lectures were both sound and delightful. Aytoun was then at the height of his literary powers, and in the society of the town, social as well as literary, he was a prominent and interesting figure. He was a member of the Bar,

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and though he had never any considerable practice, he held, besides his professorial chair, the Sheriffship of Orkney and Shetland. Few numbers of *Blackwood's Magazine* came out without a witty ballad, a political skit, or a humorous story from Aytoun's pen, and his humour and wit were always of the best. His *Lays of the Scottish Cavaliers*, *Edinburgh after Flodden*, *The Execution of Montrose*, *The Widow of Glencoe*, and *Charles Edward at Versailles*, and the *Bon Gaultier Ballads* (the latter a collaboration with Sir Theodore Martin) place him in the foremost rank of Scottish poets. For emotional power, patriotic fire, and romantic patriotism it is only tradition and a wider public that can place him second to Scott or Burns. Alongside of these lofty gifts, it is delightful to recall his brilliant and humorous talk at the dinner-table of friends, and his good-natured satire at the fireplace in the Parliament House. Many of my contemporaries will remember, as I do, his splendid impersonation of a Newhaven fishwife at a fancy-dress ball of the St Andrew Boat Club, and they will recollect too how admirably he was seconded by Mark Napier, the learned author of the "Life of Montrose," as Miss Griselda Oldbuck from "The Antiquary," by Captain Forbes Mackay of the 92nd as "The Dougal Critter," and by Lawrence Lockhart in some character which I cannot at this moment remember.

Aytoun's lectures were a delightful change from the dull disquisitions of the Moral Philosophy class, or from Professor Kelland on Mathematics. I do not

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think that Aytoun ever published his lectures, and I doubt whether he gave much pains to their composition. I am afraid I regarded the lecture as too much of a relaxation for taking notes. I chance to remember his *obiter dictum* that the most musical line of poetry which he could think of was

“The sun shines fair on Carlisle wall.”

There could be no better *arbiter elegantiarum* in literature than he.

Cosmo Innes was our Professor of Constitutional History, and the chair could not have been better filled. He, too, was a member of the Bar and a Clerk of Session, sitting in the seat of Walter Scott, an office of ease and dignity, equivalent to the Registrar in the English Courts. Cosmo Innes was a fine gentleman of the old school, and his hospitable house in Inverleith Row had open door for all that was good in Edinburgh society.

The Faculty of Law was not represented at that period in any unusual strength. John Schank More, as Professor of Scots Law, scarcely filled adequately the chair of George Joseph Bell, his more distinguished predecessor. The class was disorderly and out of hand. More was kindly and considerate to a fault; he could not bear to convict a student of a wrong answer. I well remember, in the monthly *vivâ voce* examination, his asking me a question which admitted only of a direct answer, Yes or No. I answered “Yes” at a hazard, when it should have been “No.” “Try again,” said More, “you are very



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nearly right." I did try again, more successfully, "No." "Very good indeed, that couldn't be better; now you can have full marks." His kindly system, which was very generally applied, made the Professor very popular, but it was not conducive to careful preparation.

The other Law Professors were Archibald Campbell Swinton, who taught the Civil Law, and Sir Douglas Maclagan (elder brother to the present Archbishop of York), who lectured on Medical Jurisprudence. Dr, now Sir Henry, Littlejohn also gave extra-mural lectures on the same subject, and his class qualified equally for the Bar examination. Littlejohn had great zeal, and was a capital teacher, amusingly discursive, but always instructive. He was Surgeon to the Police, and a wounded constable injured in some criminal affray would occasionally supply an easy and agreeable object-lesson for his students. I remember an unfortunate policeman exhibiting a wounded arm to illustrate some point in the lecture, when Littlejohn, delicately handling the injured member, espied a heated spot on the unhappy man's face. "Ha, gentlemen, very interesting; here we have an instance of the common pimple; let us see if we can relieve the poor fellow; he is an excellent officer, but I fear not sufficiently careful about his diet"; and then followed a practical little disquisition on the common pimple, its causes and its cure. Littlejohn was extraordinarily zealous in his profession, and extremely good-natured; in the interests of truth and science he

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would give unbounded assistance, without reward of any kind, to a young advocate engaged in preparation for a criminal trial. I remember that on one occasion I was retained, along with Donald Crawford, my senior, to defend a man charged with the murder of his wife by strangulation. The trial was to come on at noon on the following day at the Circuit Court in Glasgow; the only possible defence was that the woman had died not by throttling but from natural causes. Everything turned on the condition of the windpipe and of other internal organs; my medical or surgical knowledge was extremely superficial; I hastened to Littlejohn; he sat up all night with me and crammed me for the examination and cross-examination of the medical witnesses; at 2 A.M. he carried me off to the Surgical Museum, knocked up the custodian, and gave me finishing touches of clinical instruction on a thorax and lung in a glass bottle. By 7 A.M. I was in the train for Glasgow, and some forty-eight hours later our murderer, after a careful trial, was a free man, acquitted by the jury. The credit, or discredit, of the result was certainly Littlejohn's rather than ours.

The Medical Faculty was, I believe, exceptionally strong in 1859, and round that period. The teachers—I remember them little more than by name and aspect—were Sir James Y. Simpson, Christison, and Hughes Bennett the physicians, and Syme and Turner the surgeons.

The life of a college student in Edinburgh is too well known to be described; or, rather, it can best be

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described by saying that there is no college life at all. The students live where they please and as they please; there are no college rooms and no college hall, or at least there were none in 1859; there was no corporate life, no traditions, and no etiquette; no college sports, or amusements, or dress; there was not even a reading-room or a students' club in my time, and we never met except in the class-room. The old Speculative Society, and the Juridical Society should perhaps not be forgotten as exceptions; but the numbers of their members were few, and their existence was not vigorous. Out of some fifty or sixty students in the lecture-room, one had a nodding acquaintance with half-a-dozen at the most, and one's personal ties with them began and ended for the most part at the lecture-room door. I had myself a strong inclination to make friends, but the opportunity seemed always to be wanting. One's fellow-students certainly had the charm and interest of variety; one might by chance sit beside a Royal Prince (the Duke of Edinburgh was living at Holyrood in those years and attending lectures in the college), but it was much more likely that one's classmates were roughish young fellows of seventeen or eighteen, intent on their books, and inaccessible to sociable advances of any kind. In every class, at least in the Arts and Moral Philosophy, there were always a few middle-aged men of the Hugh Miller type, masons perhaps, and even shepherds, stirred by aims towards the higher education, but in most cases, I fear, wearily plodding towards disappointment. Of

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the actual peasant class there were probably fewer at Edinburgh than at St Andrews or Aberdeen. Edinburgh was more distant from their native glens or farms, and the cost of living, even in the poorest street of the capital, was probably rather more than in the smaller universities. But the type was well and amply represented, and the recollections even of one's limited comradeship with these homely youths, good men and true, makes one bless the munificence of Mr Andrew Carnegie, whose splendid generosity will make the upward path of many a man easier, and without, as I believe, injuring their spirit of independence. I remember one of my college friends, whose father was a farm-servant in the South of Scotland, telling me that the whole of his college expenses for the year (the session only lasted for the five or six winter months) never exceeded £20. The class fees of three lectures, probably Latin, Greek, and Moral Philosophy, amounted only to £9 or £10. A lodging on a fourth or fifth flat of a "common stair" in the Old Town was probably secured for two shillings a week; and the substantial part of his provender for the college session was, as he told me, provided by a cheese and a sack of oatmeal, sent up from his home by the carrier at the beginning of the term. The sixty or seventy miles of road from his home to Edinburgh was travelled twice a year on foot. The success of this lad in after-life was substantial; he was made, of course, of the right stuff, and one would regret to think that any change in the university system of Scotland would make

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such a career or such beginnings impossible or difficult. In my humble opinion, the Scottish universities will do well to preserve their individual and time-honoured character, rather than to engage in a hopeless rivalry with the richer and more advanced universities of the South.

My own habitation in these college days was in the classic thoroughfare of Castle Street. Opposite my lodgings was the house formerly inhabited by Sir Walter Scott, where all his earlier poems and novels were written, where he was visited by Robert Burns, and where he spent the greater part of the year, pursuing his judicial studies as Sheriff of Selkirkshire, and afterwards as Clerk of Court in the Inner House of the Court of Session. Sitting at the window of my lodging, I had in full view, towards the south the glorious Castle and its Rock, and towards the north I looked out on the whole expanse of the Firth of Forth, with the hills of Fife and Kinross in the background. It is the glorious view from the very streets of Edinburgh which give the town an inextinguishable and undying charm. "Lives there a man with soul so dead" that can look from Princes Street at the Castle Rock and the Calton Hill; from Queen Street at the Firth of Forth from Kirkealdy to Alloa, from Stirling to Inchkeith, at Ben Lomond, the Ochils and Largo Law; from the Castle, at Corstorphine and Braid and the Pentlands; from the Calton Hill at the Salisbury Crags and Arthur's Seat, and at the Lammermoors, and North Berwick Law, "who never to himself hath said, this is my own, my native land."

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Even to the man whose daily round and common task takes him along Princes Street, and up "the Mound" or the High Street, these emotions, I think, are never far absent; but perhaps to feel them at their best, one must be removed from them by the current of the stream of life and then revisit these scenes in "the fall."

In these fleeting recollections of my college days in Edinburgh I have assuredly not forgotten my old and good friend, Lyon Playfair. In 1860 he was Professor of Chemistry, one of the largest and most lucrative of the chairs. He filled the place admirably, socially, and scientifically. His personal qualities and wide social experience gave him an excellent position in Edinburgh, and the University, along with St Andrews, made an excellent choice in selecting him in later years as their first representative in Parliament. He was sociable in the highest degree, and witty. I remember in an after-dinner speech in late years, on an occasion when he was my guest, he told a story of an interesting archaeological discovery which had just been made on the banks of the Tweed, an uncovered bed of rock or clay showing the footprints of some pre-historic animal; "and, gentlemen, you will not be surprised to hear that those footprints were turned towards the south." The dig was intended, I believe, both for me and for himself. I ventured to reply that if the search were prosecuted further it would probably be found that the same footprints were again discovered in some later stratum, but this time turned northwards.

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The periodical election of a Lord Rector which is in the hands of the students was, and is still, a great event in the college life. I took part in two of these elections, and on both occasions we carried our man, Thomas Carlyle and Lord Stanley. From both of them we had memorable addresses; not merely brilliant or learned orations, which one admires and forgets, but weighty words which sink in and help in forming character and habits. Lord Derby's theme was not a wide one, but it was consistent with his formal and unemotional character, and it was well chosen for young men. He urged us to acquire the habit of moderation in language, and to avoid superlatives, except on the rare occasions when they are really called for. Why say you are "very sorry" or "extremely grieved," when "sorry" would convey the whole truth? Why fritter away such words as "delighted" or "entranced," when you are only "pleased," and so use up nouns and adjectives which should be kept for occasions when they are truly appropriate? The lesson was admirably taught, and I hope it remained on the minds of the other students as it did on mine.

Carlyle's address to the students was in his best vein, and, heard at an emotional age, it made a permanent impression on my mind. His gospel was the reverse of what is usually addressed to young men. Instead of urging us to strive to "get on" in the world, he told us it was better not to be too keen for such a poor object. I remember his very words: "Don't be too ambitious; don't be at all too

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desirous of success; be loyal and modest." . . . "I am proof against that word 'failure'—I have seen behind it; the only failure a man need fear is failure in cleaving to the purpose he sees to be best."

They are noble words, and deserve to be taken to the heart. They remind me, not agreeably, of a sermon I heard not long ago from the pulpit in a Scottish church. The preacher was holding up the life of Christ as a model for his hearers, not for its lowliness and humility, but as an example of how true religion helped a man to "get on"! The rise from the carpenter's shop to the position of a teacher in the temple and thereafter to high social influence even among the wealthy classes of society, was treated as illustrating the advantages of high religious endeavour. I fancied the worthy divine had somewhat misread the Bible story.



## CHAPTER VI

THE Parliament House of Edinburgh has always been the centre of Scottish history, or at least of such part of the history as was not enacted on the tented field. The legislative powers of the Scottish Parliament, and the Parliament itself, had of course ceased on the Union with England; but the building, as the home of the Law Courts, and the gathering place of much of the intellectual life of the country and of the metropolis, has lost little of its importance. In 1859, when I first became acquainted with its purlieus as a law student, a good deal of the modern spirit had begun to infuse its denizens, and something of the picturesque individuality of the earlier times had departed, though it had not entirely disappeared. The process of modernisation was, of course, inevitable. Many of the younger advocates, and every year an increasing number of them, had passed through the English Universities and only commenced their legal studies after taking a degree in Arts at Oxford and Cambridge. The older barristers, or many of them, held seats in the House of Commons, as Law Officers of the Crown, or as private members. Others of them passed to and fro to London as Counsel in House of Lords Appeals, and in various ways their communication

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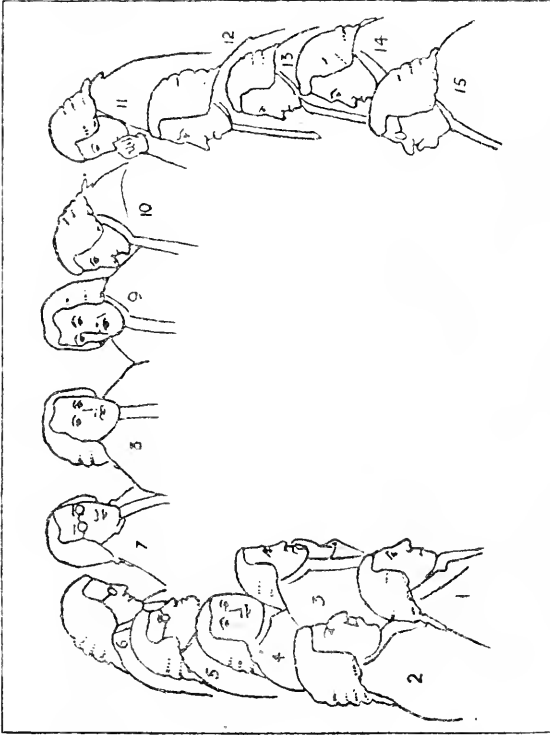
with the South became wider and more frequent. The judges were chosen from the Bar, and in most cases from the advocates who had filled the office of Lord Advocate or Solicitor-General, and who had consequently been subjected to the wider experiences of Parliamentary life. But in 1860 it was by no means so usual as it is now that both of the Law Officers of Scotland should hold seats in the House of Commons. In fact, I remember no instance of it until much more recent years. I believe the practice was discouraged, and what was expected of the Solicitor-General was that he should remain in Edinburgh and conduct the business of the Crown while the Lord Advocate was at Westminster.

But in the middle of the last century, the "Senators of the College of Justice," as the Judges of the High Court are officially called, still included many men of the older school. Legends of the barbarities of Braxfield\* and the coarse jocularity of Eskgrove,† the giants and ogres of an earlier generation, were still rife in the Parliament House, though the men themselves, or those at least of the more antiquated type, had passed away. But refinement of speech and manner had not yet become universal, and these were still connecting "links with the past," whose personality I well remember, and whose figures and demeanour and language I can vividly recollect upon the Bench. The old plate which is reproduced here represents the fifteen

\* Robert Macqueen, Lord Braxfield, Lord Justice-Clerk in 1790.

† David Rae, Lord Eskgrove, Lord Justice-Clerk in 1800.





1. Lord Newton (Charles Hay).
2. Lord Robertson (William Robertson).
3. Lord Woodhouselee (Alexander Fraser).
4. Lord Meadowbank, Senior (Allan M'Conochie).
5. Lord Glenlee (Sir William Miller).

6. Lord Craig (William Craig).
7. Lord Dunblain (William Nairne).
8. The Lord President (Sir Ilay Campbell, Bart.).
9. The Justice Clerk (Sir Charles Hope).
10. Lord Polkemnet (William Baillie).

11. Lord Colton (Robert Colton).
12. Lord Armadale (William Hayman).
13. Lord Bannatyne (Sir William M'Leod Bannatyne).
14. Lord Balmuto (Gland Irvine Boswell).
15. Lord Hermand (George Ferguson).



*The Old Court of Session, 1868.*



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judges who constituted the Bench before a reforming Act which reduced them to their present number of thirteen. All of these had passed away before I myself became a member of the College of Justice, but the memory of many of them was still green in the Parliament House.

Looking, one by one, at the men represented in the print, one recalls that Lord Meadowbank (Alan Maconochie) was a member of one of several families who seemed to possess an almost hereditary right to a seat on the Bench. His son succeeded him, with the same title, at a later date, and within my own lifetime. It is told of a witty advocate who, in the course of an argument which he was addressing to the second Lord Meadowbank, was drawing a distinction between the words "likewise" and "also," which were both used in the same deed.— "Come, come," interrupted the judge, "the words mean exactly the same thing, and you can't make out otherwise." "By no means, my lord, and I will show your lordship how differently their meaning sometimes is. Your lordship's father, for example, was Lord Meadowbank, and your lordship is Lord Meadowbank *also*, but by no means *like wise*."

The Hope family has given many sound lawyers and distinguished men to the Bench and Bar. For some centuries, beginning with Sir Thomas Hope of Craighall, the first baronet, who was Lord Advocate to King James I. in 1626, down to a recent period, the family have been frequently represented in the Court of Session. Sir Thomas himself had three

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sons upon the Bench at the same time, and it is recorded that as Lord Advocate he pleaded before them in 1646. In the next century, Lord Craighall and Lord Rankeillor, both members of the Hope family, were Senators of the College of Justice. The Earls of Hopetoun sprang from a younger branch of the baronets of Craighall and of Pinkie, and a cadet of their house, Sir Charles Hope of Grantoun, was Lord Justice-Clerk in 1840, and afterwards Lord President. His handsome presence is travestied in the print. He was closely succeeded as Lord Justice-Clerk by his son, John Hope, sometime Solicitor-General, who filled a conspicuous place in the Court of Session within my own memory. He was a strong judge, with perhaps more vigour than learning, and by no means free from eccentricities. He was an ardent disciple of Lavater, and had a strong belief in his own power of judging character by their physiognomy. He carried this foible to a dangerous excess. I remember the case of a man who was brought up for trial before him in the Criminal Court, charged with culpable homicide. The accused, who had run over and killed a woman, was a van driver, a fine manly-looking fellow, with an honest countenance. When he was placed in the dock, Hope gazed at him intently for a few minutes. "You never meant to do her any harm, did you, my man?" "No, my lord, that I didn't!" "That is enough; Constable, release him,"—a short cut to justice, no doubt; but hardly a safe one.

Up till the death of Lord Justice-Clerk Hope, it was



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the custom of the judges on circuit, if the list was a heavy one, to resume the sitting of the Court after dinner, and to continue it sometimes late into the night. The custom had its dangers, in days when judges were two-bottle men; Bench and Bar were apt to be mellow and tender-hearted in the evening sitting, and the stricter rules of evidence may sometimes have been relaxed. The practice was discontinued after the death of Lord Justice-Clerk Hope in 1858.

Lord Hermand (George Fergusson) and Lord Eldin (John Clerk), whose portraits appear in the old print, were early contemporaries of Charles and John Hope, but they had disappeared from the Parliament House, either by death or resignation, before my time. Traditions of Eldin's witticisms and Hermand's eccentricities still survived in the Court of Session, and in the gatherings round the great fireplace in the hall; but in style and matter they belonged, like the social habits of the men themselves, to a generation that was almost bygone. A country friend calling at the door of Hermand's house in Edinburgh at four o'clock in the afternoon, was informed by the servant that the judge was at dinner. "But I thought that his Lordship did not dine till five o'clock." "No more he does," said the servant; "but this is yesterday's dinner." So excellent a host, no doubt, kept on the premises the customary attendant to "loose the neckcloths" of himself and his guests.

The Boyles of Shewalton in Ayrshire, now Earls of Glasgow, were closely allied with the Court of Session. Patrick Boyle sat on the Bench as Lord Shewalton

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about 1745, and David Boyle, dying in 1853, was Lord Justice-General and Lord President within my own memory. My own contemporaries at the Bar will remember, with a peculiar regret, Archie Boyle, who died in early middle life about 1865, and whose career at the Bar at one time had high promise of success.

The family of Moncrieff have, for the last three consecutive generations, given judges to the Court of Session. Not to speak of a Sir Malcolm Moncrieff who was a Lord of Session in 1495, Sir James Wellwood Moncrieff, the ninth baronet, had a seat on the Bench about 1830, and his portrait will be found in an oil-painting by Raeburn in the Parliament House, and also in the old print which is copied on an adjoining page. His more distinguished son, James Moncrieff, the most conspicuous member of the Scottish Bar within the last half century, after a career of unusual distinction as Lord Advocate, became Lord Justice-Clerk in 1869, but retired in 1888, after receiving a peerage. His son, Henry James Moncrieff (the "Harry Moncrieff" of his loving friends and contemporaries), maintaining the abilities and traditions of his race, was raised to the Bench in 1888 with the title of Lord Wellwood; but, succeeding to his father's peerage in 1895, now sits as Lord Moncrieff in the Second Division of the Inner House.

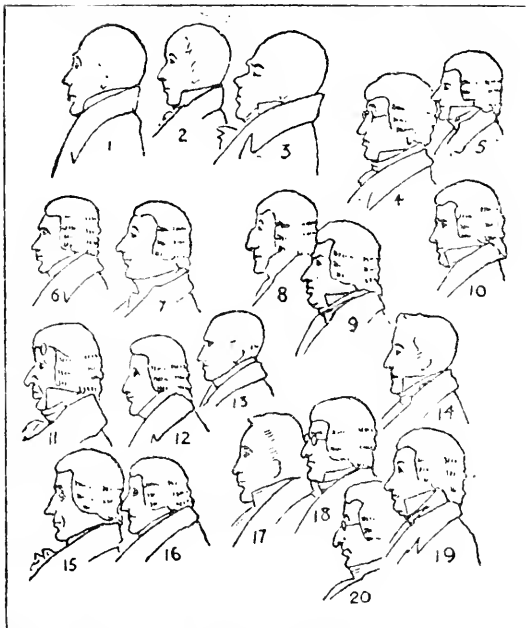
The family of Maitland of Dundrennan, in Galloway, has in my own time given two brothers as judges of the Court of Session, Lord Dundrennan and Edward Maitland. The latter, a man of high ability and learning, but of a retiring disposition, was Solicitor-





*From the engraving*

*Bench and Bar, 1830.*



1. John Hope, Esq., Sol. Gen.
2. Francis Jeffrey, Esq., D. of F
3. Sir Walter Scott, Bart.
4. Patrick Robertson, Esq.
5. Robert Dundas, Esq.
6. Lord Moncrieff.
7. John S. More, Esq.

8. Andrew Skene, Esq.
9. Robert Jamieson, Esq.
10. Robert Whigbam, Esq.
11. Lord Eldon
12. Henry Cockburn, Esq.
13. Lord Fullarton.
14. Archibald Alison, Esq.

15. Robert Forsyth, Esq.
16. Lord Corehouse.
17. Thomas Thomson, Esq.
18. George Joseph Bell, Esq.,  
Professor of Scots Law.
19. John Archibald Murray, Esq.
20. Lord Gilles



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General under James Moncrieff, and became a judge in 1862, as Lord Barcuple. He died after a very few years' service on the Bench.

It might seem from these repeated instances of judgeships being held by members of the same family that the Bench of the Court of Session was something of a close borough. The inference would be incorrect; the true explanation being that the legal profession had become a tradition in certain families, and that the ready-made connections, professional and domestic, gave opportunity to beginners, of which men of industry and ability were able to avail themselves. A Moncrieff, a Dundas, a Hope, a Blair, or a Boyle, will undoubtedly begin his career in the Parliament House with an advantage over strangers or members of non-legal families; but it is one which will not carry him far without other and more solid recommendations.

The limited number of surnames in Scotland is always noticeable to Southerners. Like the names over the shop-doors in Edinburgh or Glasgow, the same family name is found in the Parliament House in frequent recurrence. In my own time there have been three judges of the Court of Session with the name and title of Lord Mackenzie—Joshua Mackenzie (the son of Henry Mackenzie, the author of "The Man of Feeling"); Thomas or "Tommy" Mackenzie, a Lord Ordinary in 1860; and Donald Mackenzie of recent and pleasant memory.

The Lord Robertson (William Robertson) of the old print, of whom I know little, is not to be confounded with the witty and ponderous Patrick Robertson, the

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Lord Robertson of later date, and still less with the more distinguished Rt. Hon. J. P. B. Robertson, who now sits in the House of Lords with the same title.

In 1862, when I became a member of the Faculty of Advocates, the Court was constituted as follows:—

### INNER HOUSE.

#### FIRST DIVISION.

Lord President, Rt. Hon. Duncan M'Neill.  
Lord Curriehill (John Marshall).  
Lord Deas (Sir George Deas).  
Lord Ardmillan (James Craufurd).

#### SECOND DIVISION.

Lord Justice-Clerk, Rt. Hon. John Inglis.  
Lord Cowan (John Cowan).  
Lord Benholme (Hercules Robertson).  
Lord Neaves (Charles Neaves).

### OUTER HOUSE.

Lord Mackenzie (Thomas Mackenzie).  
Lord Kinloch (William Penny).  
Lord Jerviswoode (Hon. Charles Baillie).  
Lord Ormidale (Robert Macfarlane).  
Lord Barcaple (Edward Francis Maitland).

All these have passed away from thirty to fifteen years since, and, as regards the older of them, the generation who knew them personally is passing away too. Many of them were notable men in their day, and filled a large place at all events in the world of Edinburgh and the Parliament House. Even these slight records, insufficient of course to describe them to those who



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knew them not, may help to preserve them to the fading memory of their friends.

A few even of the older race, whose portraits are given on the adjoining page, were living, and personally known to me when I first went to Edinburgh. John S. More was the Professor of Scots Law, whom I have already referred to, and who directed my own legal studies. Sir Archibald Alison was better known as a historian than as a lawyer; but I remember him as a practising advocate in the Parliament House, but more familiarly as Sheriff of Lanarkshire when he was in regular attendance at the Circuit Court in Glasgow.

Lord Ivory (James Ivory), Lord Wood (Alexander Wood), Lord Mackenzie (Thomas Mackenzie), and Lord Murray (Sir John Archibald Murray) had died or left the Bench before 1862; but I remember each of them personally, and their individuality is not easily forgotten.

Duncan M'Neill, Lord Colonsay (Lord Justice-General from 1851 to 1874), with whom, as an Argyllshire man, I had the privilege of intimacy — or, at least, such intimacy as may exist with a man fifty years one's senior—was a link with the earlier part of the last, and, indeed, with the eighteenth century. He became an advocate in 1816, and must therefore have been born before 1800. He was a younger son of the Laird of Colonsay; but after making money at the Bar, he bought the Island of Colonsay from his elder brother. He never married, and in Edinburgh he kept house in Great King Street with his brother Archibald, the

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father of Ina, Duchess of Argyll. Duncan M'Neill had a long and lucrative practice at the Bar in the second quarter of the last century, and, serving for many years as Lord Advocate and member for Argyllshire under Sir Robert Peel, was the author of many important statutes, including the fundamental Act of the Scottish Poor Law. His experience as an advocate extended back to the trial of Burke and Hare, in which as advocate-depute he was one of the counsel for the Crown. His stories of his younger days carried one into a far remote past. In the Island of Colonsay, which was entirely his property, and in which he spent the long vacations of the Court, he led the life of a patriarch. The house was, and is, commodious and comfortable; but it lies in a stormy sea, and is hardly within sight of the mainland, and it was no unusual thing for guests who went there for a week's visit to be detained for double that time by stress of weather. I think there are no longer any red deer on the island, but in Lord Colonsay's lifetime there were still a few, and he disliked their being killed or hunted in any other fashion than by coursing with the old-fashioned deerhound.

Lord Colonsay, in addition to a tall and commanding form and a fine presence, was endowed by nature with a marked and distinctive Highland accent. And what nature or early youth had conferred he took no pains to obliterate, and had even been careful to preserve. There was no affectation about it, as there may have been in Thomas Carlyle; he did not care to have it commented on by others, though he took some pride in

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it himself; and, in truth, the northern phraseology and accentuation, far removed from vulgarity or plebeianism, was in him a distinction. It was, of course, to the Scottish ear as different from the Lowland Scottish as the tongue of Suffolk is from that of Cumberland; but, unlike the provincial dialects of England, the accent, whether Lowland or Highland, was, on the tongue of such men as Colonsay, wholly distinct from the accent of the rustic or the plebeian. Who that conversed with Colonsay, or, for example, with either of his contemporaries at the Bar, Mark Napier or Graham Bell, both of whom spoke the Lowland tongue, could doubt, even if he could not see their face and figure, that he was conversing with a gentleman of birth and breeding? Mark Napier and George Graham Bell, neither of them living into the last quarter of the old century, were both men of a type and of an individuality that, like Colonsay, one would be sorry to forget. They had both a fair practice at the Bar, and Mark Napier held the Sheriffship of Dumfriesshire. Graham Bell was learned in feudal law; and had he given less of his time to his favourite pursuit of fishing, or to the management of his estate in Eskdale, would undoubtedly have attained the Bench. Both he and Mark Napier were types not now to be found in the Parliament House, and still less in the Law Courts of England; men of good private means, or proprietors of a family estate, who were able to attain a good position at the Bar while devoting a portion only of their time to professional pursuits, and the rest to literature and society in the case of Mark Napier, and

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to sport and sheep-farming in the case of Graham Bell. Both men were of strikingly handsome and distinguished appearance.

Colonsay dispensed a kindly and old-fashioned hospitality at his house in Great King Street. He had a fine old dinner-table of black mahogany, from which the table-cloth was drawn before dessert, in accordance with the old style. During dinner one wine-glass only was served to each guest, and you were expected to rinse out your glass in the finger-bowl for the successive courses of sherry, champagne, and claret. In those days port, at the tables of the upper class, at least in Scotland, was almost as disused as tokay, and to drink it after champagne would have been considered an outrage on sobriety. At one or two of the older-fashioned houses, where the men would sit for an hour, or perhaps two, after the ladies had withdrawn, a custom still remained, originating, no doubt, with the laudable object of securing fair drinking: the bottom of the claret decanter, instead of being flat, was spiked, so that it could never be set down on the table, or delayed in its transit. Each guest was obliged to fill up, and, perforce, to "pass the bottle"; for it could find no rest till it again reached the host, before whose seat the table was perforated with a small circular hole, where the bottle could find a momentary rest. I have heard of wine glasses constructed on the same principle to secure that they should always be in the hand or at the lips, but I have never seen them.

It was then, and perhaps still is, the custom of the President at the beginning of the winter session, to hold

## HAUD IMMEMOR

an evening reception for the Bar at his private house. Colonsay comported himself, of course, at these functions with his accustomed stately dignity; but I remember one occasion when it was in some danger of becoming ruffled. He had shaken hands with a string of advocates, and among them a rather impudent youngster, of whom his lordship asked some friendly question about another young man, a common acquaintance, who had just been called to the Bar. "He is a clever young fellow," said his lordship, not without his usual stately Highland pronunciation. "Yes," replied the self-possessed young man; "and he has a remarkable gift for imitating your lordship." This observation was by no means to the President's taste. "I was not aware," he answered, drawing himself up with some hauteur, and emphasising his accent, "that I had any pecooliarity of speech." Unfortunately most of the amusing stories of Lord Colonsay depend for their point on the reproduction of his tones and accent, a feat beyond the power of typography, or of anything short of a phonograph. But it is certain that his peculiarity of speech never detracted from his dignity.

In the earlier part of the last century the Bench and Bar of Scotland were chiefly recruited from the class of landed gentry, and the circumstance that very many of the judges were themselves landed proprietors originated the custom of assuming a territorial title when they were raised to the Bench, in much the same way as an ordinary Scottish proprietor is known by the name of his estate. The home counties — the Lothians, Fife, Berwickshire, Lanarkshire, and Ayrshire

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—supplied the majority, as may be traced from the titles which by custom they assumed on being raised to the Bench; and though this ancient and picturesque usage is still retained, modern fashion and the more diversified origin of the members of the Bar is shown by the fact that few judges now assume any other title than their ordinary patronymic. The highlands beyond the Highland line — Argyllshire, Ross-shire, and Inverness-shire — produced a much fewer number of distinguished lawyers, probably because the inhabitants of those remoter regions were until recently less civilised and less trained to the arts of peace. Sir George Mackenzie of Rosehall, a celebrated Lord Advocate and statesman of the eighteenth century; Duncan Forbes of Culloden, Lord Justice-Clerk in 1745; Lord President Hay Campbell, and Duncan M'Neill, Lord Colonsay, were the only Highlanders of the past whom I can recall as having attained distinction in the law. Lord Kingsburgh (John Macdonald), the present Lord Justice - Clerk, Lord Kyllachy (William Macintosh), and Lord Maclaren (John Maclaren), all now on the Bench, are of Highland blood.

The office of Lord Justice-Clerk, the presiding judge in the Second Division of the Inner House, has been held in my time by two men of exceptional eminence — John Inglis and James Moncrieff. My first recollection of Inglis was as counsel for Madeline Smith in her trial for the murder of her lover, L'Angelier, by poison, at Glasgow. The trial was sensational in the highest degree. The girl was beautiful, and known in Glasgow society. The evidence was circumstantial



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and complicated, and the trial fixed the attention of the public throughout the kingdom. I can never forget the impression produced on me as I listened to the eloquence of Inglis, and marked his forensic ability. He had long held a foremost position at the Bar, rivalled only by Moncrieff. As Lord Advocate, both in the House of Commons and in the Court of Session, he gave strength to the Ministry of Lord Derby, of which he was a member. He carried the Scottish Universities Act through Parliament, and in due course was deservedly appointed Chancellor of the University of Edinburgh. As Lord President of the Court, to which position he succeeded when Lord Colonsay went to the House of Lords, his services have never been surpassed, and throughout an unusually long career as advocate and judge, the Scottish Bench and Bar have never had a worthier representative. On the death of Lord Colonsay he was offered, but declined, translation to the House of Lords. I remember with pleasure occasional visits to him at his country home at Glencorse, adjoining Hawthornden and Rosslyn, some six or seven miles to the south of Edinburgh. He was dignified and kind, but to a youngster like myself, a mere private in the ranks, he found it difficult to unbend.

Some years before his death a number of Inglis' admirers desired that a statue of him should be erected by public subscription either in the University Quadrangle, or in the Parliament House Square, or in some public place in the town. He deprecated and declined the honour, giving a reason which struck me as show-

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ing a genuine humility of mind. He said in effect, "I am not yet a very old man; I have probably some years yet to live; I may, before I die, still disgrace my name and character by some flagrant human error. I cannot bear to think that in such an event a statue should be there to commemorate me as an honourable man." No man was less likely than Inglis to need such indulgence, but his wishes were deferred to.

To Moncrieff, while he was at the Bar, I owed no professional allegiance, except during the period when he was Dean of Faculty, for he was the leader of the Liberals in the Parliament House and in Scotland, but I had a profound admiration for him personally and professionally. His position and achievements in the Law Courts and in the House of Commons are matters of public record, and it is needless to speak of them here. He was a master of eloquence, not of the more fervid sort, but of well-chosen language and dignified speech. His farewell address to Lord Colonsay on the removal of the latter from the Lord Presidentship to the House of Lords has always remained in my memory as a model of that particular class of oratory. His delivery, though not particularly fluent, and his manner, were dignified in the highest degree. Plain of feature, and rather below the middle stature, he carried himself, even in home life, with unusual dignity. His home life was a happy and hospitable one. Two daughters (one of them the wife of Lord President Balfour), and several popular sons, made the house in Great Stuart Street, and the country house, attractive to a large circle of friends. The old family seat of the Moncrieffs,

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Tullibole, in Kinross-shire, was, I believe, in ruins, but I remember with pleasure more than one visit to Cultoquhey in Perthshire, where he for some years spent his vacations. I was, of course, too far distant from him in professional standing to enjoy such intimacy of equality as with the present Lord Moncrieff, his son, my own contemporary; but his kindness and his fund of reminiscences made his company valued by all who had the privilege of enjoying it. He seemed to me the very type of the aristocratic Whig. Sir William Hutt, and Sir William Gibson-Craig, both, I think, at one time his colleagues in a Palmerston Ministry, were of the same type; but Moncrieff was undoubtedly the superior in ability. When Moncrieff received a peerage, and became Lord Justice-Clerk, though he was well past middle age, I doubt if he enjoyed the change of life. He was a good and able judge, but his health became uncertain, and he retired after a period of distinguished service on the Bench. It was supposed, and I believe on good authority, that during the years of his retirement, he was engaged in the preparation of some personal Memoir. The idea, however, seems to have been abandoned, and the loss is much to be regretted.

George Patton, who had served in at least one Conservative Ministry as Solicitor-General and Lord Advocate, and for whom a seat in the House of Commons was found in the somewhat tainted borough of Bridgewater, in Somersetshire, became Lord Justice-Clerk on the promotion of Inglis in 1867. He was a vigorous politician, and an amiable and respected man. Personally, I was indebted to him for much kindness,

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extending even to the offer of a puisne judgeship in Jamaica when the judicature of the island was reconstituted after the rebellion under Governor Eyre, and the patronage of which appointments Patton had secured for the Scottish Bar. Patton had always enjoyed a good practice at the Bar, but his official promotion had come to him late in life. After a short period on the Bench, his health and mind gave way. In vacation time, when he was, or ought to have been, enjoying the leisure of his beautiful country seat at Glenalmond, he was missed from the house, and it was not until some days later that his body was found in one of the rocky pools of the river Almond. There was reason to think that some trivial disclosures, actual or impending, connected with a bygone contested election in the corrupt borough of Bridgewater, had affected his honourable and sensitive mind. It was impossible that George Patton should have been a party to anything that was even conventionally dishonourable.

But to go back to the judges who were on the Bench at the date when I first became practically intimate with the Parliament House. It would be tedious to the reader if I were to describe them individually, but the very purpose of this unambitious record of personages and times gone-by would disappear if I did not attempt to bring back to the recollection of those of my contemporaries who care about such things some memories which may interest them. To convey to those who are strangers to Edinburgh and the Court of Session any adequate

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picture of these scenes or personages is beyond my literary powers and beyond my ambition ; but knowing, as I do myself, no greater pleasure than to pass a leisure hour in recalling the scenes and personages of earlier years, it pleases me to fancy that I may perhaps communicate some of the same pleasure to others who have had the same experiences.

Lord Curriehill, Lord Deas, and Lord Ardmillan, who, with Lord Colonsay as President, made up the First Division, made a strong Court. Curriehill, like his son, also John Marshall, the second Lord Curriehill, who became a judge some fifteen years later, was an old-fashioned Scottish gentleman and a learned lawyer. His *forte*, like his son's, was the law of real estate, and both, if they had practised in England, would have been known as eminent conveyancing counsel. The law of entail and litigation affecting landed property loomed largely in the Court of Session, and, in proportion to commercial causes, occupied much more of the attention of lawyers than it does in London.

Of all the Scottish judges of whom I have actual personal recollection, none was more sure to retain a hold on one's memory than Lord Deas. He was, in truth, a survival from an earlier generation. Of humble origin, he had raised himself by hard work and intellect to a lucrative practice at the Bar, and to a commanding position on the Bench. Of general education, taste, or culture he could boast little; indeed, he despised such trivialities, as he scorned amenities of speech or manners. Brusque and rough

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to counsel and witnesses, he was the terror of young advocates ; but of all the stories, and they were legion, of his sayings and doings, there were none that told of a rancorous spirit. He was impatient of tedious or over-refined argument, and he was capable of a seeming brutality to unhappy persons who roused his wrath ; but he was a real man, and a strong judge. His broad and uncultured Scottish accent, his homely countenance, and his rough manner and diction, will never be seen again. But there was no one who did not respect him.

Lord Ardmillan (James Craufurd), was of a different mould, or, rather, he was a man of so strong an individuality as not to represent any familiar type. It is a pleasure to recall his speech and person. He inherited a good family estate in Ayrshire, from which he took his title, and at his country house, as well as his town house in Charlotte Square, he was given to hospitality. He had filled the office of Solicitor-General during the long predominance of the Liberal party, but he had been raised to the Bench in 1855, without going to the House of Commons as Lord Advocate. It is to be regretted that the legislators and lawyers in the South had not the opportunity of becoming familiar with so excellent a representative of Scottish Law. He was full of fun and humour, boisterous sometimes, but never overstepping the limits of a well-bred gentleman. He enjoyed immensely the telling of a good Scottish story, *ore rotundo*, with smacking of lips and erratic gait and gesture. He had genuine kindness of heart and

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manner, and there was no judge of whom a bashful or faltering young advocate had less reason to be afraid.

Lord Cowan had been on the Bench for some ten years in 1860, and it was in his declining years that I knew him best. He was a careful and well-equipped judge, if not a strong one, and a man of unaffected piety. In the Criminal Court on circuit the ways of crime and of the criminal classes seemed almost to overwhelm him. I remember in the Circuit Court at Glasgow, a girl of some thirteen years from the slums of the city was placed in the witness-box to give her evidence, her head scarcely higher than the front of the stand. Cowan, before administering the oath or allowing her to give evidence, took infinite pains, as was his custom, to ascertain if she had any notions of religion or the obligations of an oath. The child answered his questions with unexpected intelligence and knowledge, and her evidence was taken. Cowan commended her warmly and expressed himself as extremely pleased with her accurate religious knowledge. Before dismissing her he added, "And now, my little girl, tell me how you earn your living." "If ye please, Sir, a'm just a bit hourock." Cowan seemed quite unable to grasp her meaning, and when it was laboriously explained to him, he almost fainted at the possibility of such depravity. A similar innocence is said to have been shown by an English judge still living, who, in charging the jury, treated as conclusive evidence of guilt the statement of a witness who swore that he had heard the prisoner say to his daughter, "Jane

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where's my bloody waistcoat?" But I do not vouch for this story.

Lord Neaves (Charles Neaves), who became a judge in 1854, after filling the office of Solicitor-General in a Conservative Ministry, did more than most of the Senators of the College of Justice to redeem the Bench from the charge of being nothing but a set of musty lawyers. His small and withered person was brimful of wit and humour, not to the exclusion of sound law, but constantly leavening and enlightening it. His literary work, generally anonymous, and always, I think, of the lighter sort, was scattered copiously for a long series of years through the pages of *Blackwood's Magazine* and other periodicals, and a certain "Court of Session Garland," long ago out of print, had it only been "fit for publication," would have made for Neaves a wide fame as a writer of humorous verse. For many years, say between 1850 and 1870, whatever was best and wittiest in *Blackwood* was almost sure to be from Aytoun's or Neaves's pen; but the one was a Lord of Session, and the other a Professor of Belles Lettres, and the authorship, though generally well identified by internal evidence, was only to be hinted at. He was a convivial and welcome guest at the dinner-tables of Edinburgh society, and at the less formal entertainments, Neaves was often persuaded to sing, in his old-fashioned whimsical way, ditties of his own composition. The wit was excellent and the fun irresistible; the more so from the contrast between the aspect of its author and the character of his productions. Neaves's quips and cranks were frequent in the Parliament



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House, but they generally tended to the elucidation of the matter in hand, not merely to waste of time. The first brief which I ever held was in his Court. A deceased Scottish laird who, though he had large possessions, had made his will without legal advice, on a sheet of notepaper, had, after dealing with his landed estate, bequeathed his "personalities" to a particular relative to the exclusion of others equally near. As counsel for the favoured relative, I argued, not without some show of reason, that the phrase was equivalent to and intended for "personalty," and that it carried all the large personal estate, money, and securities of the testator. The view of the other relatives, of course, was that it carried nothing but trinkets, clothing, and other strictly personal effects. Here was an opportunity for Neaves such as he could not possibly let pass. He revelled in the chances which a bequest of "personalities" afforded him, and his humorous handling of them undoubtedly conduced to a sound conclusion.

In the early sixties, I went the Western Circuit, and as usual a Court was held at Inveraray. I was defending a prisoner indicted for sheep-stealing. The evidence of several of the witnesses was in the Gaelic tongue, through a sworn interpreter. Their statement of the facts was given with characteristic caution, not to say uncertainty, and Neaves was thoroughly enjoying his opportunity for the study of Celtic character. I was laboriously endeavouring, but with indifferent success, to extract from a shepherd some definite statement of the facts within his knowledge. His answers, where

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the witness could by any possibility make them so, were indirect and ambiguous, as the soul of the Highland witness loveth. At last I put to him a question which admitted only of a direct affirmative or negative. The man began to hesitate over his reply; when Neaves, bending forward from the Bench, said to me, "Now, Mr Stewart, pray get the witness to answer simply 'Yes' or 'No'; that is, if you can bring him to recognise so fine a distinction." The observation was thoroughly Neavesian, but I am not sure that on this occasion he was not applying a witticism of Lord Cockburn's.

Lord Benholme (Hercules Robertson), Lord Kinloch (William Penney), Lord Jarviswoode (Hon. Charles Baillie) and Lord Ormidale (Robert Macfarlane) were the only other judges on the Bench in 1862 whom I have not already referred to. They were men of high character and good legal attainments, Scottish gentlemen of the best sort. Kinloch was of markedly religious character, a cheery, kindly and handsome old man. Benholme, gentle and refined, is remarkable in my memory chiefly by his spare form and his tall stature, but I know that he was the object of special affection to his intimate friends. Ormidale was a competent lawyer, with a handsome face and a fine presence; he was the only instance that I can remember in Scotland of a solicitor in good practice becoming a barrister and passing on to the Bench; though in England I have known at least two of such instances, Lord Field, and Mr Justice Manisty. Jarviswoode, a brother of the late Lord Haddington, had been, before attaining the Bench, Solicitor-General and Lord

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Advocate in Lord Derby's Government, and member for Linlithgowshire. He was grave, dignified and silent, and I remember hearing from him with some surprise that in the House of Commons his chief friend and associate was Bulwer Lytton. Baillie's customary place on the Treasury Bench was next to Bulwer Lytton, and he told me that when that literary Minister was on his legs for an official speech, the number of consecutive tumblers of restoratives with which he expected his colleagues to supply him was almost alarming.

The opportunities of an advocate, and even of a junior one, for friendly communication with and notice from the judges and his professional superiors were naturally greater in Edinburgh than in London. The limited social circle of the Scottish capital, the close contact of all classes of lawyers in the Parliament House and in the Advocates' Library, the equality of the golf-course at Musselburgh or St Andrews, and the hospitable habits of the majority of the judges, readily account for this. The social arrangements on circuit also facilitated it. The judges and the Crown counsel breakfasted and dined together in the hotel at the circuit town, the Lord Advocate being represented on circuit by one of the four advocate-deputes. The Southern Circuit comprised Jedburgh, Dumfries and Ayr, and at none of these moderate-sized country towns was the work, as may be supposed, at any time heavy. The Northern Circuit included Perth, Aberdeen and Inverness, seldom other than a light task, for serious crime is comparatively

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rare in the Highland counties; the Western Circuit, the most important, included Glasgow, Stirling and Inveraray. The criminal calendar at Glasgow was, and I suppose still is, as may be inferred from the population, the heaviest in Great Britain. From ninety to a hundred criminal cases was, even in 1860, not infrequently the number to be tried, and the work was arduous and onerous. On each circuit the advocate-depute was assisted by a junior of his own selection, an opportunity for learning criminal practice which was eagerly sought by young advocates. By the kindness of one of the advocate-deputes, my good friend Roger Montgomerie (M.P. for North Ayrshire), I accompanied him on each circuit for several years in this subordinate capacity, and not only was the opportunity of service to me professionally, but it gave me opportunities of intercourse with the judges which was interesting.

The system of criminal law in Scotland is an excellent one, and admirably conducted. It is surprising to one who like myself has lived under it, and who has subsequently had practical experience of the English muddle, to find that the benighted arrangements which prevail in the South should be tolerated by a long-suffering public. The *laissez-faire* of the legislature and of Government on this subject is the more lamentable that they have only to look across the Border to find a system which is admittedly satisfactory. It can only be ignorance, or pride, or jealousy, or perhaps only the *vis inertiae* of conservatism, or the want of a great legal reformer, that

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stands in the way of the change. No one cares much about the difficulties which beset the punishment and redress for crime until the question comes actually home to him in practice. Compare the two systems, when some offence against person or property is committed in either country. A citizen of Edinburgh or Glasgow is robbed by his clerk, or a farmer in Ross-shire or Galloway has his house broken into. He simply informs the Procurator-Fiscal (a real live man, who knows his duty and does it, in spite of his semi-barbarous name), and the whole business of the discovery and detection of the offender, down to the preparation and conduct of his trial, is taken off his hands, without expense of any kind, and with no other trouble than that of giving evidence. In rich and enlightened England, the injured citizen will find himself in a very different position. He will perhaps betake himself to the "Director of Public Prosecutions" or to the Treasury Solicitor, on the advice of some half-informed person who has told him that it is the duty of those officials to prosecute crime. If he seeks either of these dignitaries, this delusion will speedily be dispelled; he will be met with a polite excuse, and an intimation that if he is foolish enough to desire that justice should be done, he had better see to it himself and consult a solicitor. At this stage the wise man, at all events if he knows what is before him, will abandon his quixotic ideas about obtaining punishment for crime, and both he and the offender will go about their ordinary business, wiser if not better men. The Public Prosecutor or the Treasury Solicitor will

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raise no objection to either party taking this philosophic course; it is not their affair; except in certain instances.

Lest it be supposed that this is over-stating the case against the system or want of system, in England, turn to the Report issued in July 1901, by the Director of Public Prosecutions. The *Times* (22nd July 1901) comments on it thus: "If the demand, once very common, for a Public Prosecutor is now rarely heard, it is not because the Director of Public Prosecutions undertakes, whenever an offence is committed, duties which the public do not care to perform. His last return, recently issued, shows that only a trifling proportion of the total number of prosecutions are carried out by him. In 1900 he undertook the prosecution of only 449 cases, an insignificant fraction of the summary of indictable cases; and of these not a few were for breaches of special Acts, such as the Metalliferous Mines Regulation Act—prosecutions, to describe them shortly, of an official or quasi-official character. The report cannot fail to leave the impression, also produced by previous reports, that a very considerable amount of crime passes unpunished; that, in truth, it is the exception rather than the rule for certain kinds of offenders to be brought to justice. The Director tells us that in 1900 he received a large number of requests to institute proceedings against solicitors for misappropriation of clients' money and similar offences. Many of the requests were, as might be expected, based on frivolous grounds. Thirteen prosecutions

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were initiated and convictions were in most cases obtained. There were also several prosecutions for false pretences, and about a score of prosecutions for perjury and subornation of perjury. We need not say that every year perjurers by the hundreds, perhaps the thousands, escape without punishment. It is no less clear that a very large number of cases of gross fraud are altogether unpunished, either because the victims are poor and friendless, or because evidence can only be procured with difficulty, or because the uncertainties of the results of a prosecution are great."

I venture to say that in Scotland not one of these charges would or could be made against the criminal system. The Lord Advocate and his four advocate-deputes, assisted by the Procurator-Fiscal in each county and burgh, undertake all prosecutions; no injured person need, or does, shrink, either on grounds of trouble or expense, from invoking their aid, and the repression of crime is regarded, and accepted, as one of the functions of the State.

An illustrative case came recently within my own experience. A fraudulent clerk in London was tried and convicted for stealing money from his employer, a solicitor. It transpired at the trial that the prisoner had been in the employment of eight solicitors in succession; that he had robbed each of them, and that not one of them would spare the time and trouble and expense which as men of experience they well knew would be required for a prosecution. Such an occurrence would be impossible in Scotland. It is true

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that the establishment of a real system of public prosecution on the Scottish model, would require considerable expense, proportionate, of course, to population and to crime, but it is difficult to imagine any public expenditure which would produce more tangible results. This much-needed reform seems, however, to be hopeless of attainment. As Mr Arthur Balfour recently said, in the House of Commons, "Almost everything in Scotland is better than in England, but it is extremely difficult to induce the English to see it."

To lapse into disquisitions on the comparative merit and demerits of English and Scottish law and procedure is a temptation which I shall carefully avoid; but let me notice a small point, little more than a personal one, in which I think that the usage of the Court of Session is better than that of the English Courts. In Scotland, where there are two counsel on both sides, the juniors on both sides open the case, followed by the seniors. In England, this is reversed; the seniors open, and the juniors follow. The Scottish practice has more than one advantage, both to the counsel and to the litigants; the junior, who can devote more time to the preparation of the case, is expected to master every detail of the facts and to explain them to the Court, adding, in outline, the legal arguments in his client's favour; the senior, relieved from laborious detail of facts, is expected to perform the more onerous duty of applying and expounding the legal principles which bear upon the facts. This is a better division of the labour, and a



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more scientific distinction of the functions of counsel, and in practice I believe that the custom produces better results. In England the junior seldom gets a chance, unless his senior is absent; if the senior is present and does his work properly, the junior is either not called on at all, or is expected to hurry through a perfunctory speech which no one wants to hear. The Scottish usage undoubtedly gives a better chance to an able and industrious junior; it saves the senior unnecessary trouble in details, and the result to the litigant is more likely to be satisfactory.

In one particular the leaders of the Scottish Bar might well imitate their English brethren. In the Parliament House, the "devilling" of juniors for seniors is, or was, unknown, except to the limited extent in the criminal practice on circuit which I have already noticed. The custom might be borrowed from the English Bar with advantage. It is of great assistance to the leaders, who get a great and troublesome part of their work done for them by others without the loss either of guineas or of *kudos* to themselves; it is an enormous benefit to the briefless junior, who gains an invaluable experience which he cannot otherwise attain except by the uncorrected mismanagement of his own cases, perhaps few and far between.

## CHAPTER VII

A PERSONAL experience of the Court of Session which came to an end thirty years ago, of course, included many men who, though not then on the Bench, have since been promoted to it, and have either disappeared into the past, or are still in occupation. Of the latter I may not speak. They include names which have been, or are, conspicuous in the Law Courts and in Parliament, and in the case of all of them it is pleasant that I can be allowed to think of them as friends. Of George Young, for many years Solicitor-General and Lord Advocate in Mr Gladstone's Ministries, and now a judge; of John Blair Balfour and John Macdonald, both of whom have held these offices, and who now fill the highest places of Lord Justice-General and Lord Justice-Clerk; of Lord Robertson (J. P. B. Robertson), who, after a distinguished career as Lord Advocate and marked distinction as a Member of Parliament, filled for a time the office of Lord Justice-General, and has since been promoted to the House of Lords; of Lord Shand, who, after occupying high and prominent positions at the Bar and on the Bench, now sits in the House of Lords; of Lord Maclaren, Lord Stormonth-Darling, and Lord Pearson, all successively Solicitor-General and Lord Advocate; of Lords Moncrieff and Kinnear (now both holding hereditary peerages); of

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Lords Adam, Trayner, Kyllachy, Kincairney, and Low, all still on the Bench, and in the prime of life; of Alexander Asher, the Dean of Faculty, and leader of the Bar; of the present Lord Advocate (Graham Murray); of Donald Crawford, closest and best of friends; of A. Anderson, Sir James Gibson-Craig, W. Mure, Alexander Innes Shand, Æneas Mackay, Robert Campbell, Sir John Cheyne, Sir Stair Agnew, C. T. Couper, and others, all still living, it is not permissible for me to do more than to mention their names. It would be pleasant to record such life-long friendships as I have enjoyed with many of these, but, happily, the men belong to the present and not to the past.

But of those who have passed away, and who were friends of my own, there are some who have left their mark on the Parliament House, or in a wider field. Edward Strathearn Gordon, who had served as Solicitor-General and Lord Advocate in Lord Beaconsfield's Administration, was appointed to the Appellate Court of the House of Lords on the death of Lord Colonsay. Gordon was popular and respected in the Court of Session and in the House of Commons; but when, on his death, his place as Lord Advocate and as Judge of Appeal in the House of Lords was taken by Lord Watson, the Supreme Court gained a marked addition in judicial strength.

Watson's professional career was a somewhat unusual one. When I first became familiar with the Parliament House, Watson had already been in practice as an advocate for some twelve or fifteen years; but he had not attracted the notice of the solicitors, and

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briefs were very slow of coming to him. He was not of a very sociable disposition, and was not a man of many friends; he was beginning to be "dour" and disappointed, and justly so, for men of ability much inferior to his own were passing him in the race. But it was obvious to any one in the Parliament House—and we knew a great deal about each other there—that he was a strong and capable man, and about 1868 the law-agents, both in Edinburgh and throughout the country, began to recognise it too. His practice suddenly and rapidly increased; opportunity came, and he rose to the situation, for his knowledge of law and his capacity for business were equal to any demand. He became Solicitor-General, Member of Parliament for the Universities of Glasgow and Aberdeen, and, soon afterwards, Lord Advocate. In the House of Commons, and on the Treasury Bench, his great ability must have been recognised and appreciated, though he had no command of the lighter arts of political life. As a judge in the House of Lords he was a marked success, and I know that it was the opinion of those best qualified to judge that the House of Lords or the Privy Council has never had a stronger or more able judge. He was not a man of much general culture or of any brilliant social gifts, but as an advocate and a judge, Scotland was justly proud of him. My personal friendship with him was long and intimate.

Of other men of mark in the Parliament House whom I have personally known, and who have passed away, were David Mure, Solicitor-General and Lord

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Advocate in Disraeli's Ministry, and afterwards sitting on the Bench as Lord Mure, a man of strikingly handsome physique, and an effective Law Officer in the House of Commons; George Dundas (Lord Manor), a cultivated gentleman and learned lawyer (brother to Sir David Dundas, at one time Solicitor-General for England), who lived only for a short time after being raised to the Bench; Lord Mackenzie (Donald Mackenzie); Lord Lee (Robert Lee); Lord Rutherford Clark (Andrew Rutherford Clark); Lord Craighill (John Millar), and Lord Gifford (Adam Gifford). Of these the most notable in my memory is the last named, Adam Gifford, not from a more effective performance of his duties, but from a remarkable personality which was certainly out of the common. He was *intense* in the highest degree; the vigour of his intellect and the fervour of his mind were expressed in his strong features and shone through his eyes. He was devoid of all graces of person, or manner, or speech, but he had in a very striking degree the appearance and the reality of intellectual power. He was little known outside the Law Courts, and at his death he left a considerable part of the large fortune which he had made at the Bar for the furtherance of the religious and theological views which he favoured. These were not of a narrow character, for he had an ardent admiration for Emerson and his writings.

Of the friends and associates of thirty years ago, many—it could not be otherwise—have run their course. The names of Alexander Forbes Irvine of

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Drum, Roger Montgomerie, John Gilchrist Clark of Speddoch, Sir George Home, James Badenach Nicolson of Glenbervie, and Francis William Clark of Ulva, all of them advocates at the Bar, will, as they do to myself, bring back to many friends pleasant recollections. Henry Lancaster, of brilliant ability and high promise, who died just as he was attaining the full recognition of his powers; Sir John Skelton, who, after making a name and position in literature, first, as an essayist in *Frazer's Magazine*, under the *nom de plume* of "Shirley," and then as the biographer of Queen Mary, left the Parliament House for the Civil Service; J. F. Maclennan, not a man of many friends, for he had the tongue and the pen of the satirist and the reformer, but of marked intellectual power, better known and appreciated as a writer on Anthropology and its cognate sciences. Maclennan, to whose researches and published works on Ethnology even Darwin professed that he owed so much, and to the value of whose contributions to the science Sir John Lubbock has paid a generous tribute, died in early middle life, and it cannot be doubted that in him, as in Lancaster, the Court of Session lost one of its most able men.

I have left to the last the names of two contemporaries whose memory can never leave me, Sir David Wedderburn and Alexander Craig Sellar. If they had lived they would both still have been in the prime of life, but in both cases a comparatively early death has left their country the poorer. Any biographical sketch of either of them is needless, and would be out of

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place here. Of David Wedderburn an appreciative Memoir has been published, which has told of his life of travel, at the Bar in Edinburgh, and in Parliament. Little remains to be said of him, but to record my own profound appreciation of the value of his friendship, and of the personal loss which I sustained by his death. To analyse and describe the charm of his society is beyond my power. His independence of thought and spirit, his fearless honesty, his scorn of meanness and subservience were, some of them, carried almost to a fault; undoubtedly they stood in his way in a professional or Parliamentary career. Probably, too, there was a disinclination for close and prolonged application to any one subject, which placed him at a disadvantage in the Parliament House and in the House of Commons. He appeared seldom in the Courts as an advocate, and was not even desirous of obtaining a large practice. His hereditary property brought him only a small income, but it sufficed for his wants. It maintained him in Edinburgh, it enabled him to fight and carry contested elections in burgh and county, to take his share of field sports, and to indulge his passion for travel, and all of these were tastes and pursuits which he had no desire to exchange for the thralldom of a large practice at the Bar, or for a Parliamentary Under-Secretaryship. Of course, this taste for freedom and distaste for hard work are not virtues, and it would be ill-judged to praise them as high qualities, but, somehow, they fitted well with David Wedderburn, and one had no desire to see him "in harness." One felt that the bit and the saddle

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would gall him, and that if he were captured by the Radical Government, to whom he gave a heartfelt but independent support, he would soon be over the traces. If ability and extensive reading alone gave a claim to success in Parliament, David Wedderburn would, undoubtedly, have surpassed many of his contemporaries. I remember being one of a small dinner party of five in Edinburgh about 1865; Wedderburn, I think, the host; the others, George Trevelyan, Henry Campbell-Bannerman (then Henry Campbell), W. E. Price, and myself; all but the last were going to fight the Liberal battle in burgh or county at the ensuing General Election; all won their seats, for the first time, I think, in each case. I believe that most people, who knew all the men, would have said that Wedderburn was the most able of them, though two of them deservedly attained Cabinet rank at no distant time. Sir David Wedderburn died without ever having married; but to his relations and friends (I speak, at least, for one of them) he left an unequalled sense of personal loss. In his brother, Sir William, who has sat in the House of Commons for many years, his friends, even though they may differ from him over party questions, will find the same fervent love of liberty, the same sympathy with the oppressed, the same sweetness and gentleness of disposition. I cannot leave the name of David Wedderburn without declaring that, though in matters of religious creed he was an agnostic, there is no teacher or friend to whose example and precept in questions of conduct, of honour, or of unselfishness, I owe so much; one of the countless



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instances of the superiority of example over precept or dogma or creed as a teaching influence.

For some years I had the delight of Wedderburn's company in autumn jaunts and travels. A long summer vacation in 1862 in Denmark, Norway, and Sweden, with Wedderburn and Donald Crawford as companions, is specially memorable to me. In the course of this trip we encountered a little incident which, though not in any way *à propos* of either of my companions, I cannot help recounting here, as one of the finest specimens of the art of selfishness that I have met with. It happened, not to ourselves, but to the late Charles Elton (afterwards Q.C. and M.P.), whom we met at Bergen. He had been travelling in the wild district of Telemarken with M——, a well-known Oxford don. In the hut or small farmhouse where they were living they were dependent for their dinner on their gun. They had been unlucky in the day's sport; had only got a shot at two wild duck; Elton had missed his bird, and their dinner, after a long and weary day, consisted of the one duck which M—— had shot. They sat down to dinner, hungry but hopeful. M——, whose duty it was to carve, placed the roasted duck entire on his own plate, coolly remarking: "Elton, this is very unlucky for you; this was my bird, but I hope we shall have better sport to-morrow, and then there will no doubt be enough for us both; to-day, unluckily, there is not." Elton gave an imperfect account of the manner in which the feast ended. I think he was unwilling to do anything that would spoil the telling of so brilliant an instance of M——'s besetting virtue.

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Alexander Sellar was another intimate friend whose untimely death left a great blank among us. In addition to excellent abilities, he had a taste for work, and made his mark at Balliol, and when he was called to the Bar in Edinburgh. He had been a favourite pupil of Jowett's, and his friends in Edinburgh were chiefly among Oxford men. His brother William, the distinguished Professor of Latin in the University, Henry Lancaster, Sir Alexander Grant, the Principal of the University, Sir John Skelton, and several others, were his principal associates, but from the first I enjoyed his intimate friendship. He deserted the Parliament House about 1870, married happily, and having a private income which enabled him to follow the bent of his inclinations, he went into the House of Commons. He was no orator, but he had made himself master of educational and some other prominent subjects; he was industrious, good-humoured, and tactful; and when the Liberal Unionists revolted from Mr Gladstone's Home Rule proposals, he was chosen the Parliamentary Whip of the party. He would almost certainly have been promoted to higher office, but in the prime of life and of health and activity he was cut off by sudden illness. He under-estimated his own abilities, and his modesty was one of his many attractions. He was an affectionate and beloved friend. *In pace requiescat.*





1890. 1891. 1892.

Parliament House, Edinburgh.

## CHAPTER VIII

IN 1862, in the days of Colonsay and Inglis, the Court of Session opened at nine in the morning, and judges, advocates, and writers-to-the-signet thought it no hardship to begin their work by ascending into the Old Town almost at the break of day. Though I had but few briefs to attend to, I was myself among the earliest to arrive, but there were always two at the fireplace in the great hall before me, James Arthur Crichton and Pettigrew Wilson, both of them now long since passed away. Early birds, too, were some of the older men, untainted by the luxurious habits of the rising generation, who wended their way slowly into the recesses of the Advocates' Library, there to spend the remainder of the day in work the nature of which it was difficult to understand. It could scarcely be briefs for litigants or memorials for opinions, for with these old gentlemen the days of such things had for the most part gone by; but they were picturesque relics of the past, and even in their forensic costumes they followed the earlier ways. In the first half of the last century the custom of wearing a horse-hair wig was not universal; the gown was always worn, but for head-gear the tall hat

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was as orthodox as the wig. In the old print, reproduced on another page, many members of the Bar are represented without the wig, and in 1862 there were still a few advocates who had never adopted it, and who pleaded in gown and tall hat. Mr Park was one of these; Mr Maidment was another. Their old-world figures have both long since gone to their rest; and the wig has become universal.

It is remarkable that the change in the fashion of forensic costume should have moved in the direction of a stricter adherence, or rather reversion, to the older fashions of dress, rather than of a greater relaxation or modernisation. The wig, of course, is a mere imitation of the natural hair curled and powdered in the fashion of the eighteenth century; the judicial robes in their varied colouring and ornamentation have ancient and orthodox authority. Chief-Justice Scarlett was surprisingly mistaken in his prediction, sixty years ago, that in five and twenty years judges and advocates would have abandoned their gew-gaws, and would carry on their business, like other laymen, in ordinary costume. Events have falsified the prophecy; but it was a reasonable one, for the Americans have shown that the most puissant Law Court in the world, the Supreme Court of the United States, which has powers beyond any Court in this country, can dispense with such stage properties as wigs and gowns without loss of dignity or prestige. But the conservative instinct which retains these trappings of the law is probably a sound one. It is said that one of the Scottish judges, scornful

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or forgetful of his judicial dignity, preferred to desert the judicial procession to the Court House in some circuit town, and to accompany it on the pavement in a round jacket and with a cigar in his mouth. The innovation was not an admirable one.

The stately ceremonial of the Circuit Court is assuredly not a mere meaningless display. The procession through the streets, the judicial robes, the trumpets and the javelins, with all their "pomp and circumstance," assist in impressing the onlookers with the idea of the majesty of the law, and there would be a substantial loss of legitimate effect if the custom were abandoned.

The Volunteer movement, which stirred the whole country in 1859 and 1860, was taken up nowhere more vigorously than in Edinburgh. The organisation of the large and efficient regiment which was raised in the city was due mainly to John Hay Athole Macdonald, then known only as an advocate in fair practice, and afterwards as the author of a standard work on Criminal Law. Sir John Macdonald, K.C.B. (to give him the military rank which he has deservedly earned by his patriotic and zealous work for the Volunteers), has for the last forty years given his best not only to the law but to soldiering, and he has gained the unusual distinction of being at the same time a Brigadier-General, a K.C.B., and Lord Justice-Clerk. He is "a heaven-born soldier," and if he could follow his inclinations, he would probably at this moment be in command of an Army Division in

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South Africa rather than of the Second Division in the Court of Session.

The Advocates' Company in the Edinburgh regiment of volunteers was one of the first, if not the very first, to be formed. Edward Gordon, then Dean of Faculty, was our captain; Archie Boyle, Robert Blackburn, and Maitland Heriot the subalterns. We worked hard at drill on Bruntsfield Links and at the butts, and I believe the Company was regarded as a thoroughly efficient one. The march-out to rifle practice in the Braid Hills, armed with our old muzzle-loaders and percussion caps, and fired with something of the spirit which has sent half young England out to South Africa, comes back to one as a pleasant memory.

The golf-links at Musselburgh were, and perhaps still are, a severe temptation to the briefless advocate. An appearance put in at the Parliament House at nine o'clock; a glance at each of the Courts in search of an instructive or an interesting case to listen to; an hour or two of law reading in the comfortable and well-furnished Advocates' Library which adjoins the Courts; a dozen turns of peripatetic exercise in the Great Hall, arm-in-arm with a friend; ten minutes' halt at the big fireplace to hear the latest skit hatched or circulated; and luncheon time was reached. Then the golf-links began "a-calling," and many of the briefless listened to the call. A stray brief or two, or a little more diligence or necessity for seeking them would detain one in the Parliament House till four o'clock; but even then, if one had no consultations to



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attend, there was time before dinner for a couple of hours' ride. The country round Edinburgh was, and is, unsurpassed for this purpose; and in the company generally of David Wedderburn or Alexander Sellar, I became familiar with almost every road for fifteen miles round, and many for a much longer distance. A week-end holiday, extending, perhaps, to three or four days, was an opportunity for delightful and ever-memorable excursions. There were four or five routes, at least, by which I could ride the fifty or sixty miles into Dumfriesshire, alone, or with a companion, and each of them took one through a fine and diversified moorland country, the hills and glens of the moss-troopers, the land of the *Lay of the Last Minstrel*. The most easterly was by Stow and Galashiels, Selkirk, and Ettrick Water; or up Yarrow to St Mary's Loch, the Grey Mare's Tail, and down Moffat Water to Moffat and Annandale; or by Laidlawstiel, and Ashestiel, to Innerleithen and Tushielaw, then "up Timar and down Tamleuchar" Burn to Eskdalemuir, over the moor to the head of Dryfe, and down Dryfesdale to Lockerbie; or by Penicuik and Peebles and Manor Water; or, skirting the Pentlands, and passing by Roslin and Hawthornden, to Biggar and Symington, and so up Clyde Water by Elvanfoot, and down Evan Water into Annandale; or by Penicuik to West Linton and Broughton, across Tweedsmuir, and down the upper Annan into Moffat. By all of these routes, excepting perhaps beyond the head of Manor Water, there was a good riding road; every valley was classic ground for a lover of Walter Scott; and such expeditions, un-

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attainable in term time to a London lawyer, were a delightful solace to an Edinburgh advocate. There were sundry half-way houses on the road, where, even without any luggage but one's saddle bag, one was sure of a night's welcome. On Tweedside alone, there was Laidlawstiel, then the country house of John Mackenzie Lindsay; Ashestiel, the home of Sir Walter Scott before Abbotsford was built, and in my time owned by Lady Russell; and Yair, the country seat of Alexander Pringle, one of my contemporaries and friends at the Bar. The house and *ménage* at Yair was in those days thoroughly typical of the old Scottish country house. Mrs Pringle, the mother of the laird, and widow of Mr Pringle, erst a Lord of the Treasury and M.P. for Selkirkshire, was a type of the old school. The last time that I stayed there was for a fiercely contested election for Selkirkshire, about the year 1865. The fight was between William Napier, a pronounced Radical, brother of the late Lord Napier and Ettrick, and Lord Henry Scott, now Lord Montague. In the town of Selkirk, where we polled, Napier was the popular candidate, for the town voters were Radical to a man; the market square was crammed with "the soutars of Selkirk," a notoriously turbulent set, whose traditional weapon of offence was the disgusting one of spitting. I remember that, as I walked across the market-place behind Lord Henry Scott to the hustings, his black waterproof coat was flecked with white as if he had passed through a snowstorm. I hope *autres temps* has brought *autres mœurs* in Selkirk town.

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If few briefs came my way, there were then, as there are now, other methods by which a young advocate could eke out an income and push his way into notice. Reporting cases for the official reports or for the newspapers, concocting articles for the legal reviews or the compilation of some legal manual, were all pursuits in which I took my share; and for these the Advocates' Library afforded unequalled advantages. There was comfort, quiet, and one of the best libraries in the world at one's elbow; and if the briefs and the fees were few and far between, there were opportunities and temptations to study that one will never find again. I found for myself some legal literary work to do, and I am afraid that the pleasure which I experienced in building up a bulky but unimportant volume is responsible for my return, after nearly forty years, and with less excuse, to the same seductive but questionable habit.

The Justiciary Court for criminal trials in Edinburgh, and the Circuit Court, provided excellent, but, of course, not lucrative, experience for a young advocate; and it was not difficult to obtain, without too much self-assertion, some practice of that kind. The "Poor's-Roll" was an excellent institution, which ought to be adopted in England. It provided solicitors and counsel for every accused person; a fixed number of young men from both sides of the profession were appointed, and to them belonged the duty of preparing and conducting the defence of every prisoner who could not afford to pay for legal advice. The work was, of course, unpaid, but it was generally well done,

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for it was done by men who had their reputation to make. The benefit to the accused persons was unquestionable. In England there seems to be no adequate substitute for the system.

The experiences of human nature supplied by even a short experience of the criminal courts are extremely interesting, and furnish recollections far more fascinating than the best paid civil causes. One or two of them that have remained in my memory may be mentioned. I was junior counsel for the Crown, assisting the Lord Advocate and his deputy on the trial of a prisoner for the crime of prison-breaking. He had corrupted a warder and escaped from the gaol. The man—his name, I remember, was Macgregor—had led a downhill and disreputable life; he was of gentle birth and university education, an M.A., and a divinity student; but he had fallen into bad company at college, and ultimately sunk into dissipation and crime. He had been convicted and sent to prison for robbery, and it was while undergoing his sentence that he had contrived to escape from prison. The charge of prison-breaking, and the means by which it had been committed, was easily proved, and the judge (Lord Justice-Clerk Inglis) ordered him to stand up for sentence. Inglis, an admirable criminal judge, addressed to him a few weighty and impressive words on his wasted life and squandered abilities, and concluded by saying: "Your latest crime, that of escaping from your prison, may not be, of itself, of the worst or most heinous moral character; but you have doubled its guilt by bribing a warder to betray

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his trust. Not content with your own criminal act, you have induced another, by base temptation, to commit one which is worse. The sentence of the Court must necessarily be a severe one."

The man leant eagerly forward, and, motioning his counsel to sit down, said in a lofty and impassioned tone: "My Lord, I take a different view. Is there any man, guilty or innocent, of pure life like your Lordship's, or of a debased life like mine, who would not have done as I did, if he had the need and the opportunity? I found the warder corruptible, and I corrupted him; the doors were held open to me, and I had only to walk through them and be free. Is there any man who would not do the like?" The scene was an impressive one. The prisoner, of course, got his added months of imprisonment; but I think there were few in Court who had not a latent doubt whether in logic and in the moral sense the criminal in the dock had not mastered the judge upon the Bench. Inglis told me afterwards that even if it had been seemly for him to argue the point with the prisoner, he would have found himself rather at a loss to reply to him.

Many criminal cases, of course, turn on medical or surgical questions. Murders, or attempts to murder, by poison or by violence, or cases of accident which look like murder, require for their investigation some degree of surgical and medical knowledge, and it is for this sound reason that students for the Bar in Scotland are required to obtain a certificate in Medical Jurisprudence. The knowledge is really

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indispensable in criminal practice, even though an advocate may acquire it only to the extent of enabling him to examine or cross-examine medical witnesses. I was retained, in a case of this kind, as junior counsel, to defend a prisoner on his trial for murder in the Circuit Court in Glasgow. We were recommended to an exceptionally able physician in Glasgow, Dr Pritchard, said to be both zealous and energetic, and specially well informed. I found him to be so; he was extremely helpful and intelligent, and in return for a great deal of laborious assistance which he gave us, both before and at the trial, I was able to give him information, about which he seemed to be curious, respecting the details of criminal procedure. After the trial I saw no more of Dr Pritchard for some months, and the next news of him was that he was arrested for the murder of his wife. He was charged with killing her by a slow and subtle process of poisoning. He was a well-known and a successful practitioner in Glasgow, and the case excited great interest throughout the country. The trial was held in Edinburgh, and was protracted for several days. The evidence was, of course, circumstantial only; but his guilt was conclusively proved, and he was sentenced to death. The poisoning, which had been proceeding for months, had been going on at the time when he was helping me with my murder case at Glasgow, and his curiosity about criminal procedure was to a great extent explained. I sat through his trial from beginning to end, though I was not professionally

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engaged in it. The issue was extremely doubtful, and the interest of studying the man's features during the summing up of the judge, and during the deliberations of the jury, was intense. "How say you, gentlemen of the jury, do you find the prisoner guilty or not guilty?" "We find him guilty." The strain was over; the prisoner's eyes closed, and he sank fainting on the shoulder of the policeman at his side.

The jury in criminal cases in Scotland consists of fifteen, and not of twelve as in England, and a majority is sufficient to acquit or convict. The verdict of "Not proven," as a third alternative to the positive of "Guilty" or the negative of "Not guilty," is, I think, one which should be preserved. I have never known it misused. I have never known it used to brand unjustly a prisoner who was entitled to an absolute acquittal. I have never known it applied as a loophole of escape for the obviously guilty. I have known it only as a stigma, righteously affixed to an accused person, against whom there was a technical insufficiency of evidence, but of whose guilt there was no moral doubt.

The oath administered to witnesses in Scotland is more impressive than the English form, and the manner of its administration is better calculated to strike the conscience of even a debased witness. In Scotland the oath is always administered by the judge himself, and not merely by an usher. The words are as solemn as can be conceived, and are nearly always dictated in a tone and manner that

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does not fail to impress a witness. "I swear by Almighty God, as I shall answer to God at the great day of Judgment, that I will tell the truth, the whole truth, and nothing but the truth." The formula and its administration are different and much less impressive in England, and I believe that perjury is more frequent.

The inequality of sentences is not more striking in Scotland than in England, but it is of course a subject which in both countries presents difficult problems to criminal jurists. At the Circuit Court in Jedburgh, on an occasion when I was assisting the Crown counsel on the Southern Circuit, there were, among other cases, two young women on trial for the crime of child murder, the charge in each case being that the poor girl, a farm-servant in each case, had taken the life of her new-born illegitimate child. They were tried in separate Courts, the judge in one case being Lord Deas, and in the other Lord Jerviswoode. The circumstances were in the main similar, and of the usual painful kind. I acted for the prosecution in both cases; in both cases the jury found the prisoner guilty. In both cases the judge, in passing sentence, addressed a few well-chosen and impressive words of the usual character to the prisoner, but in the one case the closing words were, "And the sentence of the Court is that you be imprisoned for three months"; while in the other the closing words were, "And the sentence of the Court is that you suffer penal servitude for fifteen years." It is not my purpose to impugn the justice of the



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sentence in either case, for in truth there were points of difference in the evidence which justified a considerable inequality in the punishment. But it was a striking instance of how much depends on the point of view of the presiding judge, and of the way in which his idiosyncrasy leads him to regard crimes of a particular character. It would, I think, be a mistake to infer that a greater equality of sentences should be established by statute. The difference in circumstances, and the weight of the difference, is infinite, and a greater apparent equality would be too dearly bought by the limitation of the discretion of the judge.

Edward Gordon told me of two strange experiences of his own, long prior to his appointment as Lord Advocate. He was defending a bank cashier, who was charged with stealing bank notes from the bank in which he was employed, the numbers of the notes having been carefully preserved and carefully proved in the trial, though they had not been recovered. The accused man had a large family, and was cast into the depth of despair by the charge and by his imprisonment. Gordon was convinced of his innocence, and exerted himself to the utmost to obtain an acquittal. He succeeded, and a verdict of "Not guilty" was obtained. In the evening after the trial, his counsel was sitting in his room at the hotel, deeply gratified at his success in restoring the injured man to his family. The man himself was announced, and after impassioned offerings of gratitude to heaven, drew out his pocket-book and insisted on Gordon accepting

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the fee of twenty guineas which he had before declined. Gordon was touched by his effusive gratitude, but looking at the bank notes which the man had laid on the table, he saw at a glance, by the numbers, which were fixed in his memory, that they were the stolen notes. Words, he said, entirely failed him, and he could do nothing but walk to the door and point the way out to the injured innocent.

He told me of another instance of successful advocacy which had occurred to him when he was quite a junior, but of which he said that he was bitterly ashamed. He was defending a woman of doubtful antecedents, who was being tried on some charge in which the main evidence against her was that of a leading medical man of the same town. The doctor gave his evidence clearly and conclusively, and Gordon felt that it was impossible to shake it, and that there was no real defence. "My duty clearly was," he said, "to sit down and submit to a conviction; but prompted by some motive which in later life I should never have given way to, I rose to cross-examine the witness, and I asked him, at the wildest random, what I ought to have known quite well was an unjustifiable question, whether he had ever had any *liaison* with the prisoner. The question I knew was grossly improper and irrelevant, and I expected not only an angry denial from the witness, but a smart rebuke from the judge. To my surprise, the witness stammered and said 'Yes.'" The fact was, as afterwards came out, that the

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witness, a man of scrupulous veracity, unimpeached moral character, and high professional reputation, had on a chance occasion in early life, committed some indiscretion with this very woman. The circumstance had no bearing whatever on the crime for which she was being tried, but the jury returned a verdict of "Not guilty." Gordon recounted the experience as an instance of the way in which a jury may sometimes be misled by drawing a red-herring across their path, but also of a style of cross-examination which a young barrister should *not* pursue.

The Glasgow Circuit Court brought to light many a tale of suffering and misery intermingled with brutality and crime. I remember a pathetic instance, and by no means an exceptional one, as all criminal lawyers will know, of the narrowness of the line which divides crime from one of the noblest of human virtues. A Glasgow factory girl had lost her work and her means of livelihood, by being absent from the factory for a fortnight, her absence being occasioned by her giving birth to a child. She recovered from her confinement, and half starving, sallied forth one evening from her room in the slums to seek the father of her child and ask his help. She found him at a street corner, but he cursed her and sent her away, telling her he would do nothing for her. With starvation staring her in the face, she wandered away barefooted and bonnetless, till in the darkness she reached the canal. With her baby wrapped to her breast in her shawl, she sprang in; the water closed over her, but

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her cry of despair had been heard by a passer-by on the bridge. She was rescued before her life was extinct, and animation was restored. But her baby was dead, and the case was necessarily and rightly placed in the hands of the Crown counsel. The facts undoubtedly constituted the legal crime of murder, and the girl was brought up for trial at the High Court. The defence was entrusted to me; the facts were proved as I have stated them, and I had, of course, an easy task. The girl sobbing in the dock, thinking and crying for her baby and not for herself; the faltering voice of her counsel, the emotion of judge and jury and the crowded Court, were more effective than any eloquence, and the jury, in spite of the sound principles of law laid down from the Bench, refused to convict her, and she was released. The trial, after all, was her saving; a small sum of money which I was able to collect for her sufficed for her emigration to New Zealand, and it was not very long after that I heard of her being happily married to a prosperous blacksmith in the colony.

One of the most talked of civil cases which was tried in the Court of Session in my time, and with which I was for a short time connected as junior counsel, was the Yelverton case. A lady claimed to have been legally married to Major Yelverton (afterwards Lord Avonmore), an officer in the Royal Artillery, by one of the processes of irregular marriage which are recognised as sufficient by the law of Scotland. The evidence brought into full light and extended public discussion the slightness of the formalities, or

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rather informalities, by which marriage may be constituted in Scotland. It was generally supposed that the result of the case would lead to an alteration of the law in the direction of assimilation with the marriage law of England; but it is worthy of note that on a subsequent inquiry into the state of the law, a large majority of the Scottish judges were of opinion that a change was not desirable. The considerations for and against the legalisation of formal marriages only, are far too wide and numerous for discussion here; but I shall venture to express the opinion that in one particular of the marriage law, namely, the possibility of legitimising a child born out of wedlock by the subsequent marriage of the parents, the law of Scotland is not only more generous, but more just than the law of England.

## CHAPTER IX

EDINBURGH society is said to have changed its character of late years, and though I fancy that this is mostly said by elderly people who forget that they themselves are changing, perhaps more rapidly than their surroundings—*tempora mutantur, nos et mutamur in illis*; still it is obvious that there must be a change. Even London society has changed, and is changing, and not slowly; changing not only in the people who compose it, but in their customs and manner of enjoyment. The change has not been greater in Edinburgh, probably indeed not so great; but as the social circle in the northern capital is infinitely smaller and less diversified, the change is more marked and obvious. In the eighteenth century, Edinburgh society, when the great nobles and landed proprietors of the country congregated in their town mansions in the High Street and the Canongate, was everything that was gay and lively. History and romance from the most able hands have given us pictures of a social life which, if a little wanting in some of the graces of modern refinement, have canvases filled with fair ladies and gallant and learned men. Individuality of manners and of character were then allowed a freer play, and

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we have it on the authority of an English contemporary observer, that not only were the ladies of Edinburgh more beautiful and lively than in the southern capital, but that they combined with these attractions a purer, though not a prudish virtue.

In the first half of the nineteenth century (1800-1850) Edinburgh society had undoubtedly undergone a marked change. The town houses of the nobles and the gentry in the Old Town had been given up to the poorer classes; the New Town had been built; and the growing prosperity of the country, and more especially of Scotland, had encouraged the growth and enlarged the numbers of the superior professional and commercial classes. The cadets, and sometimes the heads of the best Scottish families, began to engage in law and in commerce, and Edinburgh society was enlarged and benefited by the change. Bright lights in literature began to shine; Scott, and Burns, and Thomas Campbell; Jeffrey, Sidney Smith, and Christopher North; and Edinburgh was their home and their meeting-place. The scene is too well known to be re-described; the portraits by Raeburn and by Sir John Watson-Gordon set forth the men.

The process of change was in the natural course carried forward into the second half of the last century. The legal and professional element remained the same, increasing, of course, gradually in numbers, and modernised in character by the wider circle from which its members were drawn, and by the English education which had become more common. The wealthier nobles and the larger landed proprietors,

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like the more ambitious artists and men of letters, were no doubt gradually being drawn away to the vortex of London, owing mainly to the enormously increased facilities of migration: the artists and literary men attracted to the wider market for their wares which the southern metropolis offered; and the men and women of fashion to the higher grandeur and excitement of London life, and to the more cosmopolitan character of the elements of which society in the metropolis was composed.

To what extent these or other causes have operated in bringing about a further change in the character of Edinburgh society at the present time, I do not know. My personal knowledge and experience is confined to things as they were in 1860 and in the few years after that date, and it is with a real pleasure that I recall some of the elements which made up one of the pleasantest social circles which could anywhere be found.

My own circle of friends when I first became a citizen of Edinburgh was a limited one, for my parents had never had a home in Scotland, and I had never myself been in the capital until I began my legal studies. Almost the only house to which I had access was that of the Sinclairs (of Thurso) at 133 George Street—a fine street, which is now almost entirely given up to shops and offices. I could not have had a more fortunate introduction. The house had been the home of the well-known Sir John Sinclair, who had been one of the foremost men in Scotland in the previous generation, and in 1860 was the residence of



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his four elderly daughters—Miss Catherine Sinclair, Miss Diana and Miss Margaret Sinclair, and Julia, Lady Glasgow. Three brothers, Sir George Sinclair, Alexander Sinclair, and Godfrey Sinclair, the latter two unmarried, also made their home there. The four Miss Sinclairs made up, as their father said, some four and twenty feet of daughters, and physically, as well as mentally, they were noticeable women. It was said, I do not know with what exactness of truth, that Miss Julia Sinclair's marriage with Lord Glasgow came about in this wise. Lord Glasgow, a man of excellent character, and a frequent guest in the house of Sir John Sinclair, one day dining at his table, propounded to his host his desire to be married, adding that he had made up his mind, after careful consideration, that he could not possibly do better than endeavour to secure the hand of a daughter of Sir John's, and that such was his ardent wish. Sir John bowed, acknowledging the compliment, and assured Lord Glasgow that such an alliance would meet with his entire approval. "And may I ask, Lord Glasgow, which of my daughters it is that has attracted your choice." "That, Sir John," replied his Lordship, "I leave entirely to you. I feel that your knowledge of the diversities of character and idiosyncrasies of your daughters will enable you far better than I can do to make a wise selection." "Your prudence and judgment in this matter, Lord Glasgow, is highly to your credit; let us join the ladies upstairs, and I will at once indicate to you, in a manner which you will understand, the choice which I advise you to make." They walked upstairs to the

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drawing-room. On the top step of the stairs, just as Sir John was about to open the door, one touch of nature at last came in. Lord Glasgow plucked at the tail of Sir John's coat: "One moment, Sir John; *not* Miss Diana." (Now Miss Diana was not the most beautiful.) Sir John bowed, and they entered the room. A gesture indicated Miss Julia, and the matter was speedily arranged. The little story is not a very romantic one, nor can I personally vouch for its accuracy, but the sequel brought the due reward of prudence and discretion; the pair lived happily ever afterwards.

Alexander Sinclair, who lived with his sisters, was a man of literary tastes, but they were of a *dilletante* character. He was a collector of anecdotes of his contemporaries, and he pursued the cold-blooded and ghoulish practice of keeping a written record of the stories which he picked up. For immediate use in club or drawing-room, a day-book was kept in the pocket, so that nothing might be lost, and from this, as he told me, his custom was to enter up in a ledger, in the evening, his day's gleanings. The volume was large, systematically arranged, and carefully indexed, and its owner could, in a moment, if any celebrity were mentioned, produce half-a-dozen illustrative anecdotes. The mere sight of this volume was enough, I think, to make a man with any propensity to becoming a *raconteur*, forswear his evil purpose.

Miss Catherine Sinclair had made a name for herself in literature, and she was a leader in almost every charitable or philanthropic movement in

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Edinburgh. Her personality was a striking one; her tall and masculine figure, her benign face; her simple and direct speech and manners; her wide and liberal views, her sound sense and her large heart, qualified her to be a real leader of society—of society, at least, where other aims than mere amusement and fashion were pursued. The house was a centre of all that was best and worthiest in Edinburgh and in Scotland; learning, talent, accomplishments, wit, beauty, birth and breeding. A young man was fortunate to have such friends, and the chance opened the door to not a few houses no less agreeable. In some of them, of course, the assemblies were of a lighter and more juvenile character, but nothing could be pleasanter or more valuable than the friendships that such society gave one the opportunity of forming. The more limited number of one's friends, in comparison with the maze of London, and the smaller size of the town, as well as the hospitable character of the upper classes, made frequent meetings easy, and friendships were formed with families and persons who in a larger society might have remained merely acquaintances. Dinner parties were frequent, and evening parties, largely attended, were of nightly occurrence. Hospitality was great, and the company most agreeably diversified. The Highland regiments stationed at the Castle and the Cavalry regiment at Piershill supplied a pleasant and popular element, and there were frequently political or scientific or literary strangers of distinction, in addition to those who were permanently resident in

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the city. The private and public balls were well attended by the best society in the town, by the families of position who came to Edinburgh for the winter season, and by most of the surrounding gentry. The mere names of the Edinburgh circle of that day, though of no more interest to a stranger or a general reader than a list of names from the *Morning Post*, will I know recall to many, as they do to myself, the pleasantest recollections.

Among the older ladies, who had the additional interest and charm of belonging to a school which had almost passed away, I recall with a keen sense of pleasure in having enjoyed their friendship or acquaintance, a few whom all of my contemporaries will remember; Mrs Cunningham in Moray Place (the widow of Lord Cunningham, a judge of the Court of Session, and aunt of Sir Henry Trotter of Morton Hall), an old lady of essentially Scottish type, with an almost incomparable charm of person and manner; Mrs Mackenzie in Moray Place (the widow of Joshua, Lord Mackenzie, and daughter of the last Lord Seaforth), of advanced age, and confined to her sofa by infirmity, but of a sweetness and distinction that make her memorable; Lady Belhaven and Lady Ruthven, old Scottish ladies of a type that has passed away; Mrs Bouverie Primrose, a sweet and beautiful woman, whose memory will ever be dear to me, and to whom I owe personal kindness never to be forgotten; Mrs Mark Napier; Mrs Forbes of Medwyn; and Mrs More Nisbet, all of them the best of hostesses; Sir William and Lady Gibson-Craig of Riccarton;

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Mrs Hay of Belton; Lady Emma Campbell and the three Miss Callanders; Mr and Mrs Archibald McNeill; Lady Agnew; Dean Ramsay and his nieces, the Misses Cochrane; Lord and Lady Dunfermline at Colinton, and their daughter, Mrs Trotter; Mrs Moncrieff; Mrs Blackburn; the Misses Trotter of Morton Hall; Mrs Cosmo Innes; Mrs Forbes Mackay and Lady Finlay; Mrs Macalpine Leny; Mrs Neaves; Mrs Craufurd of Ardmillan; Lord and Lady Shand; the Misses Dick Lauder; Sir William and Lady Dick-Cunyngham; Mr and Mrs Walker of Dalry; General and Lady Hamilton; General and Lady Juliana Walker; Sir John and Lady Elizabeth Douglas; Mrs Hay Newton; Mrs David Wauchope; Mrs Lindsay; Mrs J. B. Innes; Mrs Makgill Crichton; the Misses Anderson of More-dun; and a few, happily not a host, of others, formed a society which contained all the best elements, and of whom it is painful to think that only a few remain.

Of the citizens of Edinburgh, apart from those connected with the Court of Session, perhaps the most striking personalities in my time were Dean Ramsay, Dr John Brown (of "Rab and his Friends"); and, as occasional visitors, Dr Norman Macleod and Principal Tulloch. My personal tribute to the social qualities of these distinguished men can add nothing to what has been told by their biographers, but one recalls them with pleasure, as illustrating the diversity and distinction of the elements of which Edinburgh society was constituted.

Dean Ramsay, besides being a pillar of strength to

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the Episcopal Church in Scotland, and one of the most effective preachers of his time, had an unequalled repertoire of Scottish anecdote. He had an infallible sense of humour, and his "Reminiscences of Scottish Life and Character," unlike many of such collections, has not a dull story in it. It is tempting, but it would be unpardonable to poach on his preserves.

The annual General Assembly of the Church of Scotland was, and is, a distinctive and interesting feature in the life of the city in its political or civic rather than its fashionable aspect. Its main interest is, of course, ecclesiastical, and as an object-lesson of the smooth and effective government of an established Church by its own members; but it had a social side which was historical and picturesque. The Lord High Commissioner, directly representing the Sovereign, held court for a fortnight in the Palace of Holyrood, and the ceremonial of royalty was maintained. The office of Commissioner is always held by some Scottish peer of distinction, an adherent of the political party in power at the time. Between 1860 and 1870 the office was held by Lord Belhaven when a Liberal Government was in power, and by Lord Haddington under the Conservatives. The principal inhabitants of the city and many of the important personages of Scotland attended the vice-regal banquets and levees, and the scene at these gatherings was picturesque and interesting. The Church and its dignitaries were, of course, the principal element. The ministers and elders who were elected as representatives of their several presbyteries were invited, and their

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wives were bidden also to the receptions. These homely ladies no doubt enjoyed the magnificence of the occasion, but to some it was perhaps a little overwhelming. I remember being the witness of a little scene half pathetic, half ludicrous, in the vestibule of the High Commissioner's Reception Room. Two well-trained footmen stood at the door to assist the guests in removing their wraps and arranging their costume before entering the Presence Chamber. An elderly minister and his wife, probably from some remote country parish, having removed their outer wraps, were advancing towards the Throne Room. The attendant, an adept, I suppose, at distinguishing between garments suitable and unsuitable for the vice-regal presence, gently tried to remove from the lady's shoulders a woollen vestment of some kind which he judged to be unfitting; the lady nervously resisted; the flunkey politely insisted; "Ye munna, it's pairt o' my dress," she tremulously exclaimed. And so indeed it seemed to be, for a glimpse at what was beneath showed me that it would indeed have been indiscreet to insist on its removal. But it was the attendance of the ministers and their wives, intermingled with the military uniforms and the full dress of the officers of State, which gave the scene its impressive character, and if the Scottish clergy and the ladies of the manse can be said to have any distinguishing characteristic, it is that of simple dignity.

The neighbourhood of Edinburgh, the country within driving distance, is studded with hospitable

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houses which contribute greatly to the society of the town and pleasantly diversify its character. These houses are numerous. Forty years ago, Lord Hope-toun and Lord Rosebery, both now almost to be counted as Edinburgh men, were in their boyhood, and Hopetoun House and Dalmeny were practically closed; but Sir William and Lady Gibson-Craig at Riccarton, Sir William and Lady Dick-Cunyngham at Prestonfield, Mr and Mrs Walker at Dalry, Lord and Lady Dunfermline at Colinton, Mr and Mrs Dundas at Arniston, Sir George and Lady Warrender at Bruntsfield; Sir Charles Dalrymple at New Hailes; Mr and Lady Agnes More Nisbet at Drum; Mrs Trotter at Dreghorn; Mr and Mrs Gillon at Wallhouse; Mr and Mrs Hope at Belmont (I recall only those with whom I happened to be acquainted), kept hospitable houses, and added much with their families to social life in Edinburgh.

Lady Ruthven at her country house entertained largely, and in a "Saturday to Monday" at Winton one was sure not only of good company, but in the hostess herself one enjoyed the society of a very typical old Scottish lady of an eccentric kind. Lady Ruthven was not remarkable either for beauty or culture or refinement; but she had strong native wit and a sharp and cutting though never ill-natured tongue. She was so deaf as to make conversation with her impossible except through a speaking trumpet, but she was so determined to take her share in the talk of her company that the difficulty of communicating with her was never allowed to prevent her



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discussing any subject with any body she wished to address. The mouthpiece of the speaking or hearing machine which she always carried about was attached to a tube several feet long, and her habit was to address a question in her stentorian voice to some one across the room, and then to have the speaking end of the tube carried to the person she was addressing, whose answer was awaited amid the silence which her loud tones had produced. The ordeal was a little trying to any one who was averse to being the centre of attention. I remember one Sunday at Winton, when she had sent me down to dinner with a young lady with whom I was only slightly acquainted. After dinner had begun, Lady Ruthven, with kind and hospitable intent, attracted my attention across five or six people who were seated between us, and speaking in what, from her deafness, she supposed to be a whisper, she shouted to me, "The girl next you, Mr Stewart, is very nice, and what's more, she has got a lot of money; hadn't you better make up to her?" The usual perfect silence ensued, the company and our hostess both awaiting my answer while the mouthpiece and tube were brought down to me. I was young, and I am afraid I was scarcely equal to making a prompt and effective reply in the circumstances. Lady Ruthven was rather fond of a confidential and racy chat, but she forgot that what she intended for a private conversation was always a very loud and public one.

It was not by over-refined sentimentality that Lady Ruthven was endeared to her friends. She was

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interested in Art and its subjects; in fact, nothing human was foreign to her. One of the annual exhibitions of the Royal Scottish Academy included a painting of *Joseph fleeing from Potiphar's Wife*, which she examined with approval. The heroine of the story was depicted as extremely attractive. Lady Ruthven, as she turned away, was heard to remark, "But what ailed him wi' the lassie?"

In the neighbourhood of Edinburgh, the house of which I have the most vivid and permanent recollections is Pinkie House, near Musselburgh, then the house of Sir Archibald Hope, and since his death owned in succession by his brothers, Sir John David, Sir William, and Sir Alexander. The lady of the house from 1862 to 1883 was Aldena, daughter of Mr Henry Kingscote of Kingscote, in Gloucestershire. Of this beloved lady, the closeness of the ties which exist between myself and her (she became my sister-in-law in 1870) forbids me to speak; but I think that among all the members of the social circle in Edinburgh and its county between the dates I have mentioned, there was no one who has secured a more permanent place in the affections of her friends. For myself, Pinkie House, its ancient galleries, its beautiful gardens, its picturesque walks, is and always must be sacred ground.



*Winkie House*



## CHAPTER X

IN 1870 my scene shifts from Edinburgh to London: a change prompted not by inclination but by circumstances which made it necessary, or at least advisable. The happiest of engagements had been entered into, and an income must be made to enable me to carry it out. The practice which I had secured at the Bar was not quite adequate for the purpose, the acceptance of a Sheriff-Substituteship in a provincial town (equivalent to a County Court judgeship in England) was not very tempting; and as an advantageous offer of a partnership in an old-established law firm in the City of London came at the critical moment, I gratefully accepted it. Some of my closest friends, too, had been drawn away from the Parliament House. Wedderburn and Sellar had gone into Parliament; and Donald Crawford was soon to follow as M.P. for North-East Lancashire.

It was a wrench to leave the Scottish Bar and the Parliament House, to both of which I had become strongly attached by inclination, but dearer interests were at stake. Besides, I was aware that at the Bar, like elsewhere, many are called but few are chosen. What young fellow, donning the wig and

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gown, is not fired with the hope, almost with the certainty, of becoming Lord Justice-General or Lord Chancellor—a hope only gradually to be abandoned as he realises by comparison with stronger men, and in the rough and tumble of the law courts, the mediocre character of his own ability and attainments. In Scotland, as well as in England, there is, I believe, not more than one barrister out of seven or eight who earns enough to live upon, and I believe that from one cause or another something like nine out of ten leave the Bar before middle life. In my own case the change was happily for the better, in every particular except that it severed me from the Parliament House.

The solicitors' branch of the legal profession has numerous and solid advantages, and men of sense are not slow to appreciate them. The work is active, interesting, and not unimportant; but it has no picturesque or dramatic side, and he who chooses it must be content to accept its limitations in consideration of its solid advantages. To ambition of rank or honour, of place or public power, the profession offers an *impasse*, and a man whose happiness or satisfaction in life depends on these things should turn elsewhere for his life's work. The rapid acquisition of a fortune, or even the gradual accumulation of large wealth, is practically an impossibility for a solicitor who conducts his business on legitimate and non-speculative lines. As a road to wealth or to public honours, therefore, this branch of the profession cannot be recommended.

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What, then, is there to attract a man of education and intelligence to the profession of a solicitor? I answer confidently, after some thirty years of experience, that there are many things which ought to make the calling attractive to a man who desires to play a useful part in the world, and which do, in fact, make it attractive to a man with modest ambitions, especially to one with a taste for collateral pursuits, be it sport or science, which he wishes to prosecute. In the first place—and there cannot well be a stronger recommendation—the work to be done is eminently useful; the business of the world, the important interests of the country, the life of the family, cannot be carried on without it; the opportunities for doing good and preventing evil and wrong are unequalled. There are, of course, a few minor branches of the work which are sometimes pursued, and which are ministering to bad ends, such as those of the money-lender, or the bogus company promoter; but even in those cases the solicitor's part of the work is generally honestly and well done, even though the man who does it may in some few cases be tainted with the fraud. At least nine-tenths, and I think the proportion is even larger, of the work done by solicitors is honest and necessary work, conducting directly to the welfare and good order of society, without which the government of the country, the commerce of the nation, and the private life of every family would be impeded. The confidence reposed in a solicitor is enormous, whether the business entrusted to him be of a public or a private

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character, and the opportunities for good or for evil are proportionately great. In almost every piece of business in which the services of a solicitor are required, it rests with him to decide whether the work shall be carried out with a sole view to the advantage of the client, or whether the interests of the solicitor himself shall not, in some slight and unnoticeable way, be also secretly considered. It is not enough that the work should be efficiently done, but it should be done also in a manner which will bring the business to a close as speedily as possible, and so save trouble and expense to the client, and which will also prevent, as far as is possible, questions of difficulty or litigation arising in the future. It is, unfortunately, only too easy for a self-interested practitioner, even while carrying through his work effectively and expeditiously, so to manipulate it that it works out to his own advantage. The problem is a familiar one to every one engaged in the active business of the profession; and it is to the very existence of these temptations, not to speak of the grosser ones, and to the opportunity and necessity for resisting them, that the profession of a solicitor owes its claim to be regarded as one of the highest and best.

A solicitor's opportunities for the grosser forms of fraud, for the embezzlement and misappropriation of money, for the betrayal of trust or for the interested administration of funds, are exceptionally great, and the safeguards of caution and surveillance by clients are exceptionally few and feeble. This fact, and the enormous facilities for fraudulent conduct which it



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affords to solicitors, must be borne in mind when they are censured or maligned as an exceptionally dishonest class. Such wholesale aspersions are, I am satisfied from very ample experience, unfair and untrue, and they are made in forgetfulness of the fact that no other profession affords anything like the same opportunities and facilities for malpractices. A banker, a merchant, or a tradesman, a stockbroker, or an estate agent, has nothing like the same chances of defrauding his client as a solicitor has; their accounts are simpler and more easily checked, and any irregularity is much more easily detected; but legal business is mysterious, and naturally so, to most people, and the solicitor's explanations and accounts are all but unintelligible to them. It is taken for granted, and often unavoidably so, that all is correct or according to law, and the difficulty and futility of personal examination prevents its being made. Large sums of money, awaiting investment or distribution, are frequently and unavoidably left in the hands of solicitors, or under their control, and the investment or distribution is generally and conveniently carried out by or through them. The judgment of the public would, I think, be more just if it expressed surprise that fraud was not more frequent, in the circumstances.

The frequency of the opportunities and the wideness of the facilities for fraud make it, of course, the more essential that the temptations should be resisted, and that the practitioners of such a profession should be men of superior education and moral character. This requirement, and the confidence of clients, is one

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of the main attractions of the profession. It is not a brilliant or enticing one; but it is a very solid one to a man who desires to find in his life's work an opportunity for honest and effective work. Without exaggeration, and without pitching the moral question too high, it is not too much to say that there is not a day of his working life in which a solicitor does not find himself in practical contact with the alternative of working for good or working for evil. I believe that an overwhelming majority of the profession solve this question by the right decision, and that their practice in that direction becomes not only their rule but their habit.

It sounds like a truism to say that a good solicitor must be a good man; and to such extent as he falls short of this standard, he will fall short of being a good solicitor. I hope I am not lapsing into mere commonplace when I say that a solicitor must also be a man of sound common-sense, and of good judgment; that he must have the power to resist the temptation to speculate, and to resist the opportunities of getting the better of his adversary by unfair means.

The recital of all these considerations bearing upon the change from one branch of the legal profession to the other would have been wearisome and unpardonable if they had been applicable to my own case only, but as such a change is not infrequent, the statement may not be beside the mark.

Past legislation on the subject gives facilities for the change, and a member of the English Bar may

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pass to the solicitor's side of the profession, or *vice versa*, without much difficulty; I will not say, with all the ease that need be, for I know of no sound objection (excepting the usual trades-union objection, which seems to me to be entitled to small consideration) to making the change, to and fro, much more easy than it is.

What seemed to be an oversight in the Act of Parliament excluded members of the Scottish Bar from the same privileges, and it seemed likely, in my own case, that I could not become a solicitor without an absurdly prolonged apprenticeship service; but with the kind assistance of my good friends, Edward Gordon, then Lord Advocate in the House of Commons, and Lord Colonsay in the House of Lords, a short Act was speedily carried through both Houses, which enabled me, and others in the same position, to be admitted as a solicitor in England on a shortened term of Articles.

The changes in the legal profession in England since 1870, its forms and customs and *personnel*, have of course been extensive. Records of these matters in varied shapes, no doubt have been and will be written, and will supply much that is or that will be interesting, but the task or the pleasure of recording will be in other and better hands than mine.

One seems to be carried back almost to a bygone age in recalling the constitution of the English Law Courts thirty years ago. In the old Court of Queen's Bench at Westminster, sat Cockburn as Chief-Justice, along with Mellor, Lush, Shee, and Blackburn, as

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puisne judges. In the Common Pleas, Erle was Chief-Justice, with Keating, Byles, and Montague Smith. In the Court of Exchequer, Pollock was Chief Baron, with Wilde, Bramwell, and Pigott as Barons. Lord Chelmsford was Lord Chancellor; Kindersley, Page Wood, and my relative Stuart the Vice-Chancellors.

The professional life of a solicitor is, almost necessarily, an uneventful one. The work is interesting, mainly from its importance, and from the directness of the consequences of one's own action on the welfare of one's clients; but even thirty years of active life as a city lawyer yield nothing suitable for reminiscences such as these. In legal business of a diversified character, one necessarily comes into touch with a great number of the leading men of the day, but one's intercourse with them as a lawyer is seldom of an interesting character, and in cases where it happens to be interesting, it is "not intended for publication." The circumstances of professional and social life in London, moreover, make a broad line of demarcation between professional and social intercourse. Business of all kinds, legal, commercial, financial, or political, is carried on in a quarter of the town entirely distinct and generally at a considerable distance from the domestic and social life; and the men whom one meets habitually in the Law Courts, in Chancery Lane, at Westminster, or in Lombard Street or Cornhill, on terms of easy and pleasant acquaintanceship, or even friendship, are in very many cases inaccessible for social intercourse. The circumstance is peculiar to the largest towns,

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and it is, of course, nowhere so marked as in London.

Appeal cases from the Court of Session to the House of Lords pleasantly keep alive some slight connection with Scottish law and Scottish lawyers. Comparisons are both odious and unnecessary, but a Scotsman and a member of the Scottish Bar may well be gratified by seeing and hearing the Law of North Britain represented by such men as John Blair Balfour, Alexander Asher, or Graham Murray.

It seems to me that I have been especially fortunate with the friends of my own profession in London. Of living contemporaries, many of them the closest and most valued of friends, it is unnecessary and not permissible to speak. Solicitors, whose work is confined in the main to their offices, do not meet each other with anything like the frequency of barristers in the Law Courts, but membership of the Council of the Incorporated Law Society, and a seat at certain Boards, both of them supplying a very agreeable variation of one's work, have given me several pleasant and lasting friendships. Of the friends who have passed away I recall with pleasure and gratitude for many kindnesses, Henry Markby, Francis Bircham, Henry Freshfield, and Sir Arnold White. With the latter, *bon camarade* if ever there was one, I had special opportunity of enjoying his wit and wisdom. A two months' trip to Egypt and up the Nile with him in 1891, and another winter's trip in his company to Algiers, are delightful reminiscences.

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Membership of the ancient and respected Low-tonian Society is an honour which every London solicitor values, and I am proud to have been elected to it. Though the object of this small but select Society is apparently solely that of dining together, it would be a mistake to suppose that it has no other function. Like the City Law Club, it has done, and is doing, in an indirect but effective fashion, excellent service to the profession in maintaining a high standard of professional conduct and mutual confidence. With such Treasurers as those with whom I have been associated, Arnold White, Frederick Farrer, Frederick Davidson, and William Freshfield, its traditions and usefulness have been, and will be, maintained.

The Council of the Incorporated Law Society, and its numerous committees, supply work which is very far from being a relaxation, but which no man should shirk if he is called on by his fellows to undertake it. Much of the business is disagreeable, especially the investigation of the malpractices or charges of malpractices of one's fellows, and all of it is thankless. Its demands upon one's time are great and unceasing, but their fulfilment is an obvious duty. It is unfortunately true that men of this class, the men who have attained to prominence in their profession, and who are consequently inclined to be content with the conditions under which they have succeeded, are apt to be disinclined for reform. The presence of younger men upon the Council is much to be desired; but if they are to be useful they must have old heads on

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their shoulders. A sincere desire for sound administration by the governing body of my profession cannot be better expressed than in the prayer of the old Cromwellian divine for the members of a new Parliament, "Give zeal to those who have wisdom; give wisdom to those who have zeal."

My own service on the Council has been under Presidents such as H. Manisty, R. Ellett, and Sir Henry Fowler, and there seems to be no likelihood of the presidency falling below that high standard.

## CHAPTER XI

THE most prominent features of London society in the last quarter of the nineteenth century have been, and probably always will be, politics and fashion; the first being the magnet which attracts the men, and the second the women. Long may they remain so! It will be an evil day for England when the best of her sons turn away from politics with disgust, as is too often the case in America; and though some of the amusements of what is called fashionable life are carried to a painful excess, it would be a misfortune if there was any great or marked decadence in it, or if the more refined and well-bred classes gave up the lead to the plutocracy. In politics, at all events, there is, happily, as yet no sign that the best educated and best born men are yielding their natural place; indeed, I believe that there never has been a period in the history of the country when the reverse might not be said with greater truth.

But to everyone who is not engrossed in practical politics, or abandoned to the life of clubs and of ball-rooms, the charm of London society undoubtedly consists in its diversity. My small share in the con-



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glomerate during the last thirty years may possibly yield, if not nuggets of great value, some small pieces worth preserving, of later date than those recorded in an earlier chapter. The interdict of good taste against the discussion of persons still living, is, of course, a serious limitation; but one must be careful, as Lord Lyndhurst said of Lord Campbell's "Lives of the Chancellors," not to add a new terror to death.

With Alfred Tennyson in his latter years I had rather frequent opportunities of meeting, both in London and at his country home. Personal intimacy with great authors is a dangerous experiment, and especially with great poets, for their imaginative writings have stimulated one's ideas about their personality till one foolishly half expects to find their genius displaying itself in every word and action of their daily life. Tennyson fulfilled such an unreasonable ideal perhaps as well as any man could, for his personal appearance, with which every one is familiar, was of course magnificent, and his manners and habits of life were dignified, if a little poetically eccentric. But the adulation which he received among his family and friends, was somewhat satiating. I have seen Mrs Greville, a woman herself of the most brilliant talents, actually prostrate herself on the floor before him, just as I have seen ladies of rank and talent literally sitting at the feet of Sir Henry Irving. Tennyson would have been more than human if he had resisted the effect of this hero-worship. A little niece of mine was one day standing beside his chair; he lifted her up and placed her on his knee for half-a-minute

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and then he put her down, saying, "Now, you can say you have sat on Tennyson's knee." It was kindly meant, but there was a self-consciousness in the word and in the act which was not infrequently to be observed in the poet.

An intimate friend of my own, who was himself present, told me an amusing story of Tennyson and Jowett which must be known to some three or four others, but which I had never before heard. Tennyson was Jowett's guest at the Master's Lodge, Balliol, with a few other men, and after some good talk the poet had retired early to his room. The party re-assembled next morning at breakfast. Tennyson was in a silent mood, but as the men were rising from the table he said, "Jowett, after I left you last night I wrote a few verses; I am not sure that I have ever done anything better; I will read them to you." Jowett, preparing to go off for his day's work, replied hastily, "Oh no, thank you, Tennyson, I've no time for that sort of thing just now. I am very busy." Tennyson's consternation at such a reception of the intended honour must have been extremely amusing.

It was not easy to draw Tennyson into conversation on any subject except what he himself selected, and in general topics he was not ready to take an interest; but this was perhaps not to be desired, and it was of course infinitely better for the world that he should ruminate and compose.

Mrs Oliphant, the authoress, I met frequently over many years, and on intimate terms. One might differ

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from her on certain questions, but it was impossible not to respect and admire her. I regretted the publication of her own Memoirs, an exposure of heart-rendings and heart-searchings which had better have been locked in her own bosom. They were the fruit, I cannot but believe, of the baneful and morbid habit of keeping a journal, a journal not of facts but of reflections and self-examination, a practice which I believe has disadvantages more numerous than its benefits, and which clergymen and teachers should, I think, be slow to recommend. It is much more likely to produce self-consciousness and morbidity than a truthful and straightforward habit of mind.

On this subject, though with no reference to Mrs Oliphant, I cannot resist quoting from Walt Whitman a passage which has some delightful merits, and which cannot justly be considered as irreverent:

“I think I could turn and live with animals, they are so placid and self-contained. They do not whine about their condition; they do not lie awake in the dark and weep for their sins; they do not make me sick discussing their duty to God; not one is dissatisfied, or demented with the mania of owning things.”

The following passage, characteristic of Mrs Oliphant, occurs in her “Autobiography and Letters”:

“It was with Mrs Stewart that I first saw Tennyson. She had, I suppose, asked leave to take me there with her to luncheon, and I was of course glad to go, though a little unwilling, as my manner

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was. Tennyson paid no attention to me, as was very natural. I am afraid I did not attract the poet in any way, to Mrs Stewart's great disappointment and annoyance. Feeling I had not been entirely a success—a feeling very habitual to me—I was glad of Mrs Stewart's sign of departure, and went up to Mrs Tennyson on the sofa to take my leave. I am never very good at parting politenesses, and I daresay was very *gauche* in saying that it was so kind of her to ask me, while she graciously responded that she was delighted to have seen me, etc. Tennyson was standing by, and eyed us, while these pretty speeches were being made, with cynical eyes. 'What liars you women are!' he said. There could not have been anything more true, but, to be sure, it was not so civil as it was true."

I have met Robert Browning several times at the house of my sister Mrs Steevens; but in ordinary social intercourse, not of an intimate kind, Browning was, as he looked, a man of the world, and in dinner-table conversation he succeeded in veiling almost completely the imaginative poet. He was a ready talker on the current subjects of the day, or on higher matters; but you might sit next to him through dinner and not be surprised if you were told that you had been conversing with a cultivated lawyer or merchant.

James Russell Lowell, poet, humorist, and diplomatist was a delightful friend and companion. His poems, his letters, his biography, his sociable habits, and his brilliant conversational powers have made

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the man himself well-known to many Londoners. Of the efficiency of his political services as American Minister in London, and of their appreciation by his own Government, I am less able to speak, but I have some doubts of his ever having formed a very accurate appreciation of English feeling towards his own country. I remember his maintaining, at my own dinner-table, that if the true opinions and wishes of the mess of any British regiment could be taken, every officer present would be found to be hostile to the United States and in favour of a war with them. This was said at a time when there was no burning international question in the foreground, and it undoubtedly expressed the opinion he had formed. I cannot imagine anything more mistaken, or more misleading to those who were relying on his judgment. His own wishes and views were, of course, entirely in favour of permanent international peace.

Lowell's wit and humour—for he had both—were perennial. He was the very reverse of the man who (I stupidly forget the name of the poet who described him):

“ . . . altho' he had much wit  
He was very shy of using it,  
As being loth to wear it out,  
And therefore bore it not about,  
Except on holidays or so,  
As men their best apparel do.”

Lowell's witticisms were always at the tip of his tongue. I remember his dining, as my guest, with the Lowtonian

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Society. There was no prepared speech-list, but after dinner I proposed some toast, and called on Lowell for a reply. He rose at once and thanked me for not having given him any warning before dinner that he would have to speak, "for if you had, you would have turned my white-bait into *bête-noir*."

Bayard, who succeeded Lowell as United States Minister (or rather Ambassador, for the Ministry was then raised to the rank of an Embassy), and of whose friendship I also had the privilege, was a man of a splendid type. One is almost tempted to think, from the best specimens of the upper class, that North America, whether United States or Canada, seems to be capable of producing a finer type of man, physically and intellectually, than the British Isles. It would be in accordance with the laws of nature that it should be so. A natural stock, transplanted or propagated in a new and favourable soil, grows more vigorously than before, and it may be that England will have to contend with this natural law. Bayard's antecedents were by no means Anglophile. It had been at his instance, when he was Secretary of State at Washington, that Lord Sackville had been recalled from the English Embassy, and in other cases he had shown no great indisposition to hostilities with England. But Bayard produced a most favourable impression in London, and his personality was an extremely attractive one.

Any reminiscences of London society of twenty years ago are almost certain to include Richard Monckton Milnes, the first Lord Houghton. Though

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I met him frequently on somewhat intimate terms, it is impossible to add much to what is already known of him, but I always feel that I owe to him, and partly to W. E. Forster, a precept of pure gold. I have read somewhere, either in the Life of Forster or of Monckton Milnes, these words (I quote from memory) said by the former of the latter: "If I am in prosperity, I can go to any of my friends and be sure of a kind reception. If I were in distress there are, I am thankful to say, not a few others from whom I could be sure of sympathy. But if I were in disgrace there are very few indeed whom I would venture to go to. One of these is Monckton Milnes." It was a splendid tribute to the character of the man. It is difficult to conceive of higher praise. Since I read that page many years ago, I have often said to myself that I would try to be a man of whom that could truly be said; but the precept is wofully difficult to practise.

My family had long and close relations with Thomas Hughes ("Tom Brown"), and, as a Rugby boy, my own sympathies with him were specially close. But his high aims and his benevolent character are displayed in his books, and I can only add a passing tribute of respect and friendship.

It is strange and sad to number among those who have passed away, so young a man as my brother-in-law, George Steevens, journalist and war correspondent. His claims to eminence in literature and in his own particular branches of it have been understood and appreciated by a wide public, but it

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is pleasant to be able to add that in private and family life he earned the deep respect and affection of his own and his wife's family. To have earned fame and fortune at the age of thirty is given only to the few. It seemed likely, if his life had been prolonged, that he would have accomplished much.

My cousin, Osmond Priaux, himself a man of marked ability and learning, though too critical and too otiose to be himself a producer, was much given to entertaining his literary and political friends, and his select dinners at his house in Cavendish Square were "feasts of reason." The parties were always small, and I have met there the best of company. Herbert Spencer and the late Sir Francis Doyle were frequent guests. Doyle was an admirable diner-out, touching nothing in conversation that he did not adorn with wit and erudition. In his company and in Herbert Spencer's one should have been provided with the Boswellian note-book and pencil. I remember one evening when both of these were among the guests, the question was started, "What is the most interesting building in the world?" The party was eight in number, and the selections, if I remember right, were, Windsor Castle, Westminster Abbey, the Alhambra at Granada, the Mosque of St Sophia at Constantinople, the Cathedral at Cordova, the Taj Mehal at Agra, the Kremlin at Moscow, and the Great Pyramid; the two first being Doyle's and Herbert Spencer's respectively; but there were no two in agreement, so the competition was undecided.



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It would, of course, be tedious to note casual meetings or interviews with persons of note merely because they are public characters. These personages generally explain themselves pretty fully by speech and by writing, and the journalism of the day tells us all about their neck-ties and their hearth-rugs. The opportunities for such intercourse, afforded by membership of the Athenæum Club which I have enjoyed for the last fifteen years, are, of course, numerous, but social decency forbids the exploitation of friendships or acquaintanceships made or cemented in that way.

Accidental circumstances, or rather an introduction from the late Lord Revelstoke, brought me into contact with the Emperor Napoleon III., soon after his arrival in England, following on the *debâcle* of Sedan. I saw him repeatedly at Camden Place, Chislehurst, oppressed by the malady of which he died not long after. His courtesy and consideration for a person to whom, like myself, he owed neither, in any but a general way, was remarkable, and the impression I received of him was that he was not only a good man of business, but that he was thoughtful of the interests of everyone connected with him. My interviews with him were, however, almost entirely confined to formal matters, as were also numerous meetings with M. Rouher, his faithful adherent and former Prime Minister.

With the Empress Eugénie I have had the pleasure of more frequent and more interesting

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meetings. The establishment of her beautiful home at Farnborough Hill, the erection of the mortuary chapel for the remains of the Emperor and the Prince Imperial, and of the monastic establishment connected with it, have been subjects all-engrossing to her, in which I have been privileged to give assistance, and they have given me opportunities of seeing the good sense, the sound judgment and good feeling with which Her Majesty comports herself. Were there ever misfortunes more oppressive, or private griefs more overwhelming, and were they ever borne more becomingly? To this imperial lady — her grace and beauty as undiminished in her seventieth as in her thirtieth year — a failure of personal dignity would be impossible; but one has only to think of Louis Philippe or of Charles Edward Stuart to remember that nobility of conduct or of demeanour may give way under a strain.

It is known to every one that the loving sympathy of our own beloved Queen did much to soften the grief of the Empress Eugénie, and it is pleasant to have personally witnessed the profound appreciation of that sympathy.

I saw the Prince Imperial frequently at Chislehurst, and passed some time with him on the day before he left for South Africa. His charm and sweetness of manner sprang obviously from a kind heart. The little courtesies, of which he was never forgetful, to every one about him were evidently not mere formalities, but came from a sweet nature. When the news of his tragic death in South Africa,

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and of his abandonment to the spears of the Zulus by his comrade, reached the Empress's home I had several opportunities of hearing the circumstances discussed, and I do not believe that there was a single house in England where fewer reflections were made on the conduct of the unhappy man who was at the Prince Imperial's side.

## CHAPTER XII

IF a man's work or business allow him a few weeks' holiday in the spring-time, as well as in the autumn, he may almost be accounted happy. There are many places in Europe that are seen at their best in April or May; and, like most people who are fond of travel and have opportunity for it, I have delightful recollections of Italy and Switzerland in the early part of the year. Three weeks in Spain in April 1893, including Burgos, Madrid, the Escorial, Toledo, Seville, Cordova, Granada, Gibraltar, and Tangier; and a month in Greece, Smyrna, and Constantinople in the following year, supply cud to chew for the whole of later life.

But "My heart's in the Highlands, wherever I go," and the real holiday of the year is always in the West Highlands, and, if possible, in Argyllshire.

One need not be ashamed to confess to a love for Argyllshire that almost amounts to a passion. Natural beauty in its highest forms; mountain, moorland, river and sea, high peaks and lonely glens; sea-lochs and rocky burns; crofters' cottages, fishermen's huts, and comfortable shooting lodges; the Highland folk; the days on the hills, or by the riverside, alone or in chosen company, are enough to endear that

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chosen land even to the Sassenach; but when one can hug to one's heart the feeling that one is in one's "ain countrie," and among one's "ain folk," that the glen one gazes on has been trodden by one's forbears for centuries; when one remembers—and the thoughts and the words never leave one—the history, the romance, and the poetry that have immortalised their deeds; when one sees with one's own eyes that while in times long past the burns have run red with the blood of their enemies, family feuds and rebellion have now given place to industry, patriotism, loyalty, and love of liberty; then one may well remember that no excuse is needed for giving to Argyllshire that first and dearest place in one's heart. The passionate attachment to their own country is common to many, and especially to the smaller nations, and it is strongest among mountaineers. In the Highlands it is strengthened and perpetuated by the Highland dress, by the music of the bagpipes, and by the romantic poetry and literature evoked by the picturesque events of Scottish history. The campaigns of Montrose and of Claverhouse; the splendid qualities displayed by the Highlanders in the risings of 1715 and '45; the commemorative poetry and prose of Scott and of Aytoun, have all tended to keep alive the sentiment. It may, perhaps, occasionally exhibit itself with immoderation, or with lack of judgment and good taste; but it is irrepressible, and it is for the interest of the nation generally that it should be encouraged, though not artificially. It fosters the patriotism and martial ardour of the

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people; its common interest promotes fellow-feeling among different classes, and it inspires the military ardour which carried the Highland regiments to the heights of Dargai, and into the jaws of death at Magersfontein. The danger of its engendering political disturbance, or the revival of the vain hopes of the '45, is happily long and completely past.

In the present day there seems to be little danger that the Highland traditions will die out, or that the Highland spirit will decay. They are deep-set in the hearts of the people, and they are being encouraged by the literary activity and the impartial researches of Andrew Lang, and by the poetical prose of Neil Munro; and they are efficiently aided both by literary and by practical work, by such men as the present Duke of Argyll, Lord Archibald Campbell, and many others.

The Highlands lost one of its greatest and best men in George Douglas Campbell, the eighth Duke of Argyll, who died in 1900. If he was not the ideal or conventional Chief of a great Highland clan, he was something finer and rarer; he was a student, a man of science, and a statesman; his liberal and catholic spirit, his varied knowledge and high attainments were conspicuous even to one who, like myself, was only a few-days' guest at Inveraray Castle.

For the last fifteen years I have spent every autumn in Argyllshire, with the exception of two seasons at Morar, near Arisaig in Invernessshire, and one on the Island of Rousay in the Orkneys. North Morar gave splendid scenery and



*W. J. Ford, May, 1889*





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good sport in forest, moor, loch, and river; and Rousay gave good fishing and shooting, an excellent house, and a great deal that was interesting even to a superficial observer in geography, archæology, and ethnology; but an autumn spent anywhere but in Argyllshire seems like one wasted in foreign lands. In Argyllshire, delightful temporary homes have been found and enjoyed at Tiroran, Lochbuie, and Quinish in Mull, and at Dunans, Bonawe, Ormsary, Lochhead, and Kingairloch; but since 1895, a happy chance has enabled me to be the occupant of Fasnacloich in Appin, the old home of my family. This beautiful old place, grand only in its scenery and natural advantages; not ranking among the best for deer or grouse, or indeed for any sport except fishing, but a glorious natural setting for the family and historical traditions which surround it, has recently, to my infinite grief and disappointment, and not without a strong though ineffectual effort on my own part, passed out of the hands of my family into those of a stranger.

Hogg, the Ettrick shepherd, has sung:

“O hone-a-rie for the Stewarts of Appin  
The gallant, devoted, old Stewarts of Appin;  
Their glory is o'er, and their clan is no more,  
And the Sassenach sings on the hills of green Appin.”

The lines are not yet wholly true, though nearly so. The new proprietor, a man of wealth and, I believe, of liberality, will build himself a new castle, and will bring money into the glen, more than any Stewart can do; and modern ideas. No doubt all

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will be well. "There goes the end of an auld sang," as Lord Findlater, then Chancellor of Scotland, said when he signed the Treaty of Union with England.

If I had the pen of my friend Alfred Gathorne-Hardy, whose delightful book on Highland sport\* is a worthy successor of the "Moor and Loch" of my still older friend the late John Colquhoun, I should be tempted to describe some scenes of sport at Fasnacloich,† on the loch in front of the old house, or in Glencreran and Glenure, during the happy autumns which I have spent there; but descriptions of that kind, unless they are drawn with a skill and charm such as Gathorne-Hardy's, are tame and lifeless, and in my own case I must leave them to the imagination and to the memories of those who have taken part in them. Our autumn parties in the old house are and will be the pleasantest of memories; Londoners tired with work and pleasure, old Edinburgh friends, beloved relations. Such neighbours too,—distant, but well worth the trouble of overcoming the distance,—as Mrs Campbell of Inverawe, Mrs Cameron Lucy of Callart, Mrs Campbell of Dunstaffnage, Mrs Maclean of Ardgour, Mrs Stuart of Dalness, the Bishop of Argyll and the Isles, and Lord Strathcona of Glencoe. Life has little better to offer than holidays spent in such surroundings.

\* "Autumns in Argyllshire." By the Hon. Alfred E. Gathorne-Hardy, 1900.

† My father in his younger days killed eighteen salmon one stormy day standing at one spot where the river flows into the loch, but that is a record which is not to be attained now. Every salmon-fisher will have his own theory for the decadence. My own opinion is that the seals in Loch Creran are the main cause of the mischief.



*Tasmanische Leich*



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Within a few hours' steaming in a yacht from Fasnacloich lies Glenfinnan, perhaps the most beautiful spot in Scotland, where Prince Charles Edward raised his standard in 1745. The romantic associations with the beautiful green meadow at the head of the lonely Loch Shiel, with its picturesque monument erected a century ago by Macdonald of Glenaladale, made it a favourite pilgrimage from Fasnacloich. The old monument, its site and its associations, are deeply impressive, at all events to one whose ancestors joined the Prince on his landing with all the force they could muster. In May 1897, our late beloved Queen Victoria, who had herself visited the spot, and who was greatly interested in Jacobite memorials, graciously accepted from me a silver model of the old monument, made for me from drawings by my valued friend, W. Skeoch Cumming of Edinburgh.\* Not without consultation with the Princess Louise, Duchess of Argyll, I placed on the model the following inscription, borrowed in part from Glenaladale's inscription on the monument itself, and I have reason to know that Her Majesty was pleased with its terms:—

\* From Mr Skeoch Cumming, as a painter of Highland historical subjects, much is to be hoped for. He has painted for me admirable representations of the first and last scenes in the campaign of 1745—the Prince raising his Standard at Glenfinnan, and his Escape from Borradaile, in a boat, to the French vessel *L'Heureux*, on 19th September 1746; also a "Return from Culloden," the romantic incident of an Appin Stewart who had rescued the Standard of the clan on the battlefield, and borne it back wrapped round his body under his coat, and delivered it, torn and bloody, but in safety, to the youthful chief in Appin. Mr Cumming has a historical knowledge of Highland dress and armour which is wide and accurate.

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TO COMMEMORATE

the generous zeal, the undaunted bravery, and the inviolable  
fidelity of those who fought and bled  
in the arduous and unfortunate enterprise of

1745

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This Copy

of Prince Charles' Monument at Glenfinnan,  
the original of which is erected on the spot where his Standard  
was first raised, on 19th August 1745,  
is presented, by Her Majesty's gracious permission,  
in the 60th year of her glorious and beneficent reign, to

QUEEN VICTORIA,

the representative, by the grace of God,  
of the unfortunate Prince, for whom that daring and  
romantic attempt was made to recover a throne  
lost by the imprudence of his ancestors,

by

CHARLES STEWART, of the family of Fasnacloich, Appin,  
a member of the Clan, who now yield to none  
in their loyalty to their Queen.

1897.

The ebony base or plinth on which the model stands bears on its several facets the following devices:—the inscription; a Prince of Wales' coronet, and the monogram C. P.; the coat of arms, crest, and motto of the Stewarts of Appin; and a copy of the Standard borne by the clan at Culloden (now in the possession of the Ardsheal family).

The Court ceremonial at which I was permitted to make the presentation was extremely interesting to me, little familiar with such functions. It was at Windsor; a state carriage took me from the railway station to the Castle. After luncheon I was summoned

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to the Queen's apartments, where Her Majesty, with Princess Christian of Schleswig-Holstein and Princess Beatrice, received me; the Master of the Household and the Lord-in-Waiting were in attendance. The Queen asked me several questions about the geography of Glenfinnan (not without a little confusion between Loch Arkaig and Loch Shiel), and recalled several incidents of her own visit there, which Princess Beatrice said she also well remembered. In the course of the conversation, which was graced by Her Majesty with the charm of womanly kindness and simple unstudied phrase, I pointed out to the Queen that I had given a Prince of Wales' coronet to Prince Charles Edward, and she replied with a smile: "Oh, that is quite right." When the little ceremony was ended, I was invited to see the private apartments at the Castle, and I was pleased to hear afterwards from Lady Errol that the Queen had really been gratified by the little present and the words of the inscription.

Two years later, in October 1899, when I was staying with Lord Glenesk at Glenmuick, on Deeside, I had another pleasant little interview with Her Majesty, a reminiscence which, since her death, I now doubly value. I was bidden by the Queen to lunch at Balmoral, and to see anything there that would interest me. I went there on 14th October, and, after luncheon, was summoned to the Queen's private room, a room which I, of course, noticed had its carpet, its curtains and its sofas of Stewart tartan. Her Majesty detained me in conversation for fifteen or twenty minutes,

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speaking chiefly about the Western Highlands and Jacobite reminiscences, and asking after members of my family with whom she was acquainted. I was, of course, greatly impressed—as who has not been?—with her simple words, and the sweet and touching kindness of her manner—sweet by its evident thoughtfulness and consideration in very small matters—and touching by its slight shyness. After the interview was ended, the Queen directed that I should be shown the “Stuart Room” in the Castle, a small room containing an interesting collection of Jacobite engravings. To this I have since been allowed to make one or two additions. I need not say that the Stuart engravings at Balmoral, which are entirely of recent acquisition, bear no comparison with the splendid and invaluable collection in the Library at Windsor.

The Queen’s kindness and sympathy for people with even slight ties of acquaintance has, of course, often been observed. I suppose there are hundreds of people who have had a similar experience, but I can never forget the warmth and kindness of her inquiries about a certain young trooper in the Imperial Yeomanry in South Africa, who happened to constitute the whole of my family. There were, of course, “ten thousand good as he” doing the like, and yet this gracious Lady could spare time and thought for an obscure unit.

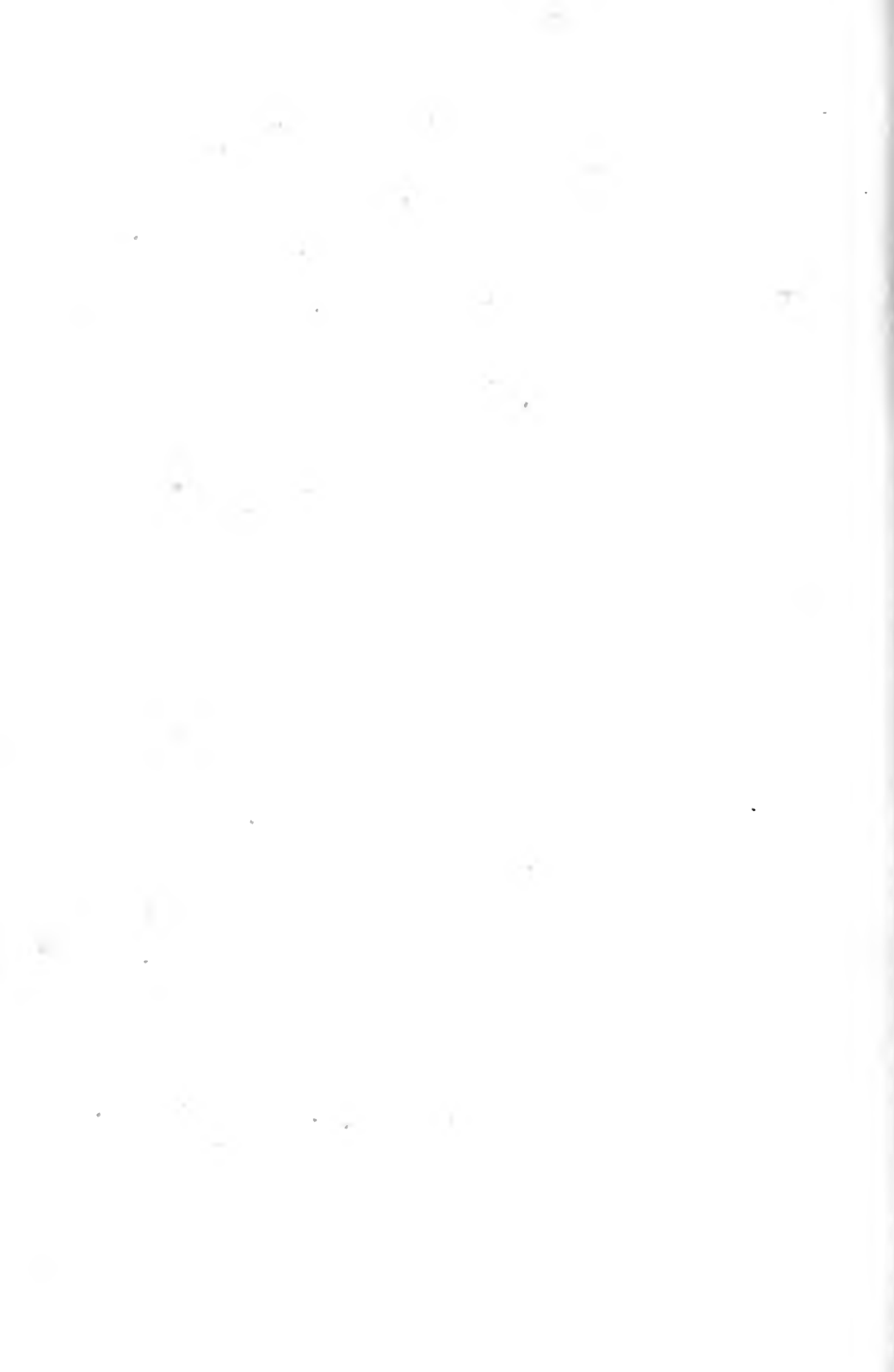
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These reminiscences may now draw to a close; not yet with the close of life, but necessarily within

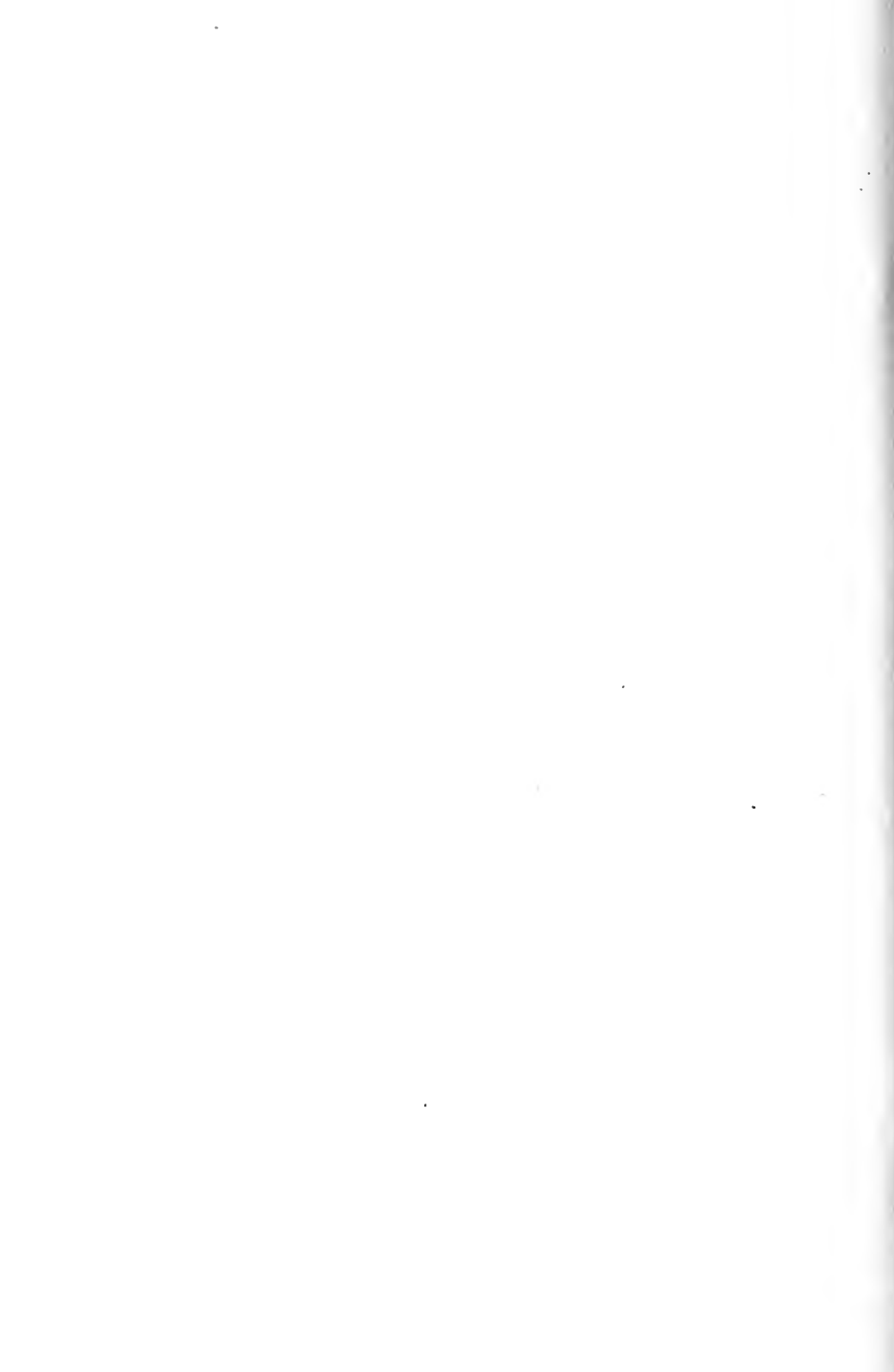


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measurable distance of it. With health and strength unfailed, though one's views of life must be short, they need not be otherwise than cheerful. Jowett's reflection on present or approaching old age is as sound as it is bracing. "The best years of life are after fifty or sixty, when you know what the world really is and what it has to offer. One knows more, and can do more for others; has more experience, and is free from illusions about wealth or rank or love; or even about religion, for one begins to see what is really valuable in it, and what is half physical and half emotional."







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